IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

FREEDOM FROM RELIGION FOUNDATION, INC., and JOHN ROE, *Plaintiffs*,	§	
v.	§	CIVIL ACTION NO. 4:19-CV-1934
JUDGE WAYNE MACK, in his personal capacity and in his official capacity on behalf of the State of Texas, *Defendant*.	§	

APPENDIX TO DEFENDANT'S REPLY IN SUPPORT OF HIS MOTION TO DISMISS

Defendant, Judge Wayne Mack in his individual capacity, files this Appendix to his reply in support of his motion to dismiss.

Exhibit	Page(s)	Document
A	App. 1–5	*Freedom from Religion Found., Inc. v. Mack*, 2018 WL 6981153 (S.D. Tex. Sept. 27, 2018)
B	App. 6–11	Tex. Att'y Gen. Op. No. KP-0109, 2016 WL 4414588 (2016)
C	App. 12	*Court Holds First Session*, St. Petersburg Times (July 30, 1996), 1996 WLNR 2378937
D	App. 13	*Minister Turns Into Surprise Witness*, Hou. Chron. (Apr. 1, 1985), 1985 WLNR 1239288
E	App. 14	*25 Moonshiners Confess*, The Morning Tulsa Daily World (Apr. 30, 1922)
F	App. 15	*Putnam*, Norwich Bull. (Oct. 9, 1919)
G	App. 16	*Federal Court*, Daily Chieftain (Apr. 6, 1901)
H	App. 17	*St. Johnsbury*, Orleans Cty. Monitor (June 13, 1881)
I	App. 18	*A Verified Dream*, Superior Times (June 7, 1879)
J	App. 19	*Circuit Court*, Herald & Tribune (Aug. 10, 1871)
K	App. 20–24	Cathy Gordon, *The Bench and the Bible: State District Judge Refuses to Leave His Faith at Courtroom Door*, Hou. Chron. (Nov. 23, 1985), 1985 WLNR 1247161

Dated: October 2, 2019

Respectfully submitted,

/s/ Allyson N. Ho

Allyson N. Ho
Attorney-in-Charge
Texas Bar No. 24033667
S.D. Tex. Bar No. 1024306
Bradley G. Hubbard
Texas State Bar No. 24094710
S.D. Tex. Bar No. 3450976
GIBSON, DUNN & CRUTCHER, LLP
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201
Telephone: (214) 698-3100
Facsimile: (214) 571-2900
aho@gibsondunn.com
bhubbard@gibsondunn.com

John S. Ehrett (admitted *pro hac vice*)
Virginia Bar No. 93486
GIBSON, DUNN & CRUTCHER, LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
Telephone: (202) 955-8500
Facsimile: (202) 467-0539
jehrett@gibsondunn.com

Michael D. Berry
Texas Bar No. 24085835
S.D. Tex. Bar No. 2412537
Hiram S. Sasser III
Texas Bar No. 24039157
S.D. Tex. Bar No. 632649
FIRST LIBERTY INSTITUTE
2001 West Plano Parkway, Suite 1600
Plano, Texas 75075
Phone: (972) 941-4444
Facsimile: (972) 423-6162
mberry@firstliberty.org
hsasser@firstliberty.org

COUNSEL FOR DEFENDANT JUDGE WAYNE MACK
IN HIS INDIVIDUAL CAPACITY

CERTIFICATE OF SERVICE

I certify that, on October 2, 2019, a true and correct copy of the foregoing Appendix to Defendant's Reply in Support of His Motion to Dismiss was served by ECF on all counsel of record.

/s/ Allyson N. Ho
Allyson N. Ho

Exhibit A

2018 WL 6981153
Only the Westlaw citation is currently available.
United States District Court,
S.D. Texas, Houston Division.

FREEDOM FROM RELIGION FOUNDATION, INC., Jane Doe, John Roe, and Jane Noe, Plaintiffs,
v.
Judge Wayne MACK, in his official capacity as Justice of the Peace, and Montgomery County, Texas, Defendants.

Civil Action No. H-17-881
|
Signed 09/27/2018

Attorneys and Law Firms

Patrick Allen Luff, Winckler & Harvey, L.L.P, Austin, TX, Elizabeth Cavell, Pro Hac Vice, Samuel Troxell Grover, Freedom From Religion Foundation, Madison, WI, for Plaintiffs.

Aaron Michael Streett, Amy Pharr Hefley, Nischay Kishan Bhan, Baker Botts LLP, Houston, TX, Vincent Moore Wagner, Baker Botts LLP, William Thomas Thompson, Gibson Dunn Crutcher LLP, Dallas, TX, Adam Tyler Anderson, Montgomery County Attorney's Office, Concroe, TX, Chelsey Danaye Youman, Hiram S. Sasser, III, First Liberty Institute, Plano, TX, for Defendants.

MEMORANDUM AND ORDER

EWING WERLEIN, JR., UNITED STATES DISTRICT JUDGE

***1** Pending is Defendants' Motion for Judgment on the Pleadings (Document No. 65). [1] After carefully considering the motion, response, reply, notice of relevant authority and response thereto, and applicable law, the Court concludes as follows.

1 A separate Motion by Judge Wayne Mack, in his Individual Capacity, for Leave to File Brief as *Amicus Curiae* in Support of Defendants' Motion for Judgment on the Pleadings (Document No. 69), to which Plaintiffs have filed no opposition, is GRANTED and Judge Mack's proposed *amicus* brief at Document No. 69-1 is deemed filed.

I. Background

Plaintiffs' allegations in this suit are summarized in the Court's Memorandum and Order entered January 19, 2018, at pages 1-7, and need not be repeated here. [2] Plaintiffs allege that the courtroom prayer practice of Judge Wayne Mack, the elected Justice of the Peace for Precinct 1 of Defendant Montgomery County, Texas (the "County"), violates the Establishment Clause of the First Amendment. [3] The County moves for judgment on the pleadings, arguing that (1) it is entitled to statutory immunity under 42 U.S.C. §§ 1983 and 1988, (2) it cannot be liable under Monell for actions Judge Mack took in his judicial capacity, and (3) Plaintiffs lack standing because their injuries would not be redressed by the relief they seek against the County. [4]

2 Document No. 52.

3 Document No. 22 (1st Am. Compl.). The Court previously dismissed the claims of Plaintiff Jane Noe for lack of standing. Document No. 52.

4 Document No. 65.

II. Identity of the Defendant(s)

The parties in their submissions often refer to "Defendants" in the plural, which may confuse the actual identity of Defendant. Plaintiff have repeatedly clarified that their claims against Judge Mack are limited to his official capacity. The Court in its Memorandum and Order dated January 19, 2018, explained that "Plaintiffs' claims against Judge Mack, which are limited to his official capacity, are merely another way of stating their claims against the County." [5] *See* Kentucky v. Graham, 105 S. Ct. 3099, 3105 (1985) ("As long as the government entity receives notice and an opportunity to respond, an official-capacity suit is, in all respects other than name, to be treated as a suit against the entity.").

5 Document No. 52 at 7.

When Plaintiffs subsequently suggested that their official capacity claims might be claims against an undisclosed government entity other than the County, [6] the Court ordered Plaintiffs to state "whether their claim against Judge Mack in

his official capacity is a claim against any government entity other than Montgomery County, and if so, [to] identify that entity and show that Plaintiffs have served or are actively seeking service upon it." [7] The Court further ordered that "[i]f no such other entity subject to suit is so identified by Plaintiffs, then Plaintiffs' claim against Judge Mack in his official capacity will be dismissed as redundant with their claim against Montgomery County." [8] In response, Plaintiffs confirmed that "[f]rom the outset, Plaintiffs sued Judge Mack in his official capacity, with the understanding that that was simply another way of suing Montgomery County. Plaintiffs do not identify any other government entity synonymous with Judge Mack in his official capacity." [9] Plaintiffs' claims against Judge Mack in his official capacity are therefore DISMISSED as redundant. *See* Bustillos v. El Paso Cty. Hosp. Dist., 226 F. Supp. 3d 778, 789 (W.D. Tex. 2016) ("[W] hen a plaintiff asserts claims against both the municipal entity and a municipal official in his or her official capacity, the Court can dismiss the official capacity claim as 'redundant' to the municipal-entity claim.") (citing Sanders-Burns v. City of Plano, 594 F.3d 366, 373 (5th Cir. 2010)), *aff'd,* 891 F.3d 214 (5th Cir. 2018); *see also* Kinnison v. City of San Antonio, No. CIV.A. SA-08-CA-421X, 2009 WL 578525, at *2 (W.D. Tex. Mar. 5, 2009) ("Courts routinely dismiss official capacity claims as redundant in § 1983 actions.") (collecting cases).

6 *See* Document No. 75 at 20; Document No. 84 at 2.

7 Document No. 8 5 at 3.

8 Id.

9 Document No. 86 at 1. This is consistent with the County's position in defending Plaintiffs' claims against Judge Mack in his official capacity. See, *e.g.,* Document No. 64 ¶ 73 (Def.'s Answer) ("The First Amended Complaint alleged redress only against Montgomery County because Judge Mack is sued only in his official capacity.").

III. Standing

***2** "Because standing is an element of the constitutional requirement of 'case or controversy,' lack of standing deprives the court of subject matter jurisdiction." In re Weaver, 632 F.2d 461, 462 n.6 (5th Cir. 1980). "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." FED. R. CIV. P. 12(h) (3). Accordingly, the Court turns first to the County's argument that Plaintiffs lack Article III standing to sue the County.

"Article III of the Constitution limits the 'judicial power' of the United States to the resolution of 'cases' and 'controversies.' " Valley Forge Christian Coll. v. Americans United for Separation of Church & State, Inc., 102 S. Ct. 752, 757 (1982). "The power to declare the rights of individuals and to measure the authority of governments ... 'is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy.' " Id. at 758 (quoting Chicago & Grand Trunk R. Co. v. Wellman, 12 S. Ct. 400, 402 (1892)). Accordingly, the Court "has always required that a litigant have 'standing' to challenge the action sought to be adjudicated in the lawsuit." Id. "[T]o satisfy Article Ill's standing requirements, a plaintiff must show (1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 120 S. Ct. 693, 704 (2000). "The plaintiff, as the party invoking federal jurisdiction, bears the burden of establishing these elements." Spokeo, Inc. v. Robins, 136 S. Ct. 1540, 1547 (2016) (citation omitted).

In its motion to dismiss, the County argued that Plaintiffs failed to establish the first requirement of standing because they had not alleged a cognizable injury in fact nor alleged that such injury was imminent, arguments that the Court rejected in its Memorandum of January 19, 2018 ("Memorandum") (Document No. 52). Additionally, "[v]iewing the pleadings in the light most favorable to Plaintiffs," see Memorandum at 36, the Court found that Plaintiffs' Amended Complaint stated a claim "against the County based on a persistent, widespread practice [by Judge Mack] of violating the Establishment Clause." Id. at 39. However, focused attention was not given by the parties in their briefing and oral arguments, or by the Court in its Memorandum, to the issue now highlighted by the County, namely, whether Plaintiffs' injury arose from *the County's* challenged actions and whether it would be redressed by declaratory or injunctive relief *against the County,* as is necessary for Article III standing. [10]

10 The undersigned Judge erred in not raising this fundamental jurisdictional imperative of redressability. "[C]ourts ... have an independent obligation to determine whether subject-matter jurisdiction exists, even in the

absence of a challenge from any party." Arbaugh v. Y&H Corp., 126 S. Ct. 1235, 1244 (2006) (citation omitted). The Supreme Court has observed that "[a]s is often the case, the questions of causation and redressability overlap." Massachusetts v. E.P.A., 127 S. Ct. 1438, 1468 (2007). The undersigned vacates all references to the question of redressability contained in its Memorandum of January 19, 2018 that are at variance with this Memorandum, including the erroneous preliminary statement at page 10 of the January 19th Memorandum, that "Plaintiffs have established the second and third requirements of standing: their alleged injury if cognizable arises from Judge Mack's challenged prayer practice and would be redressed by a decision holding the prayer practice to be unconstitutional." Document No. 52 at 10.

***3** The County argues that the relief Plaintiffs seek against it would not redress Plaintiffs' injury because the County has no power to stop Judge Mack from employing the prayer practice to which Plaintiffs object. [11] As the County correctly argues, justices of the peace are elected officials whose office is established by the same section of the Texas Constitution that establishes county commissioners courts. TEX. CONST. art. V, § 18. Although commissioners courts are authorized to draw the boundaries of the county's precincts, and "in each such precinct there shall be one Justice of the Peace," id., commissioners courts are given no authority over the office of the justice of the peace. The next following section of the Constitution confers upon justices of the peace their criminal and civil jurisdiction, with no mention or reference whatever to commissioners courts. TEX. CONST. art. V, § 19. Other matters pertaining to justices of the peace are prescribed by statutes. For examples, "The justices of the peace in each county shall, by majority vote, adopt local rules of administration." TEX. GOV'T CODE § 27.061. While a justice of the peace may be removed for incompetency, official misconduct, or intoxication, such removal is not at the discretion of the county commissioners court but rather is initiated by the filing of a petition in district court--the same process for removing a county commissioner or county judge. TEX. LOC. GOV'T CODE §§ 87.012, 87.013, 87.015. Plaintiffs cite no Texas constitutional or statutory provision or caselaw authorizing counties, including county commissioners courts, to control the judicial or administrative courtroom practices of justices of the peace, and the Court has found no such authority. [12]

11 Document No. 65 at 14.

12 The commissioners court sets the time and place for holding justice court, and, in precincts with more than 75,000 inhabitants, "the commissioners court shall provide and furnish a suitable place in the courthouse for the justice of that precinct to hold court." TEX. GOV'T CODE § 27.051. The commissioners court also sets the salary for justices of the peace, subject to a statutory minimum. TEX. LOC. GOV'T CODE § 152.012. Such responsibilities, however, do not amount to control over the courtroom proceedings of justices of the peace. *Cf.* McMillian v. Monroe County, 117 S. Ct. 1734, 1740 (1997) ("The county's payment of the sheriff's salary does not translate into control over him, since the county neither has the authority to change his salary nor the discretion to refuse payment completely. The county commissions do appear to have the discretion to deny funds to the sheriffs for their operations beyond what is 'reasonably necessary.' But at most, this discretion would allow the commission to exert an attenuated and indirect influence over the sheriff's operations.") (internal citation omitted).

Where a defendant has no authority to stop an illegal act, injunctive relief is "utterly meaningless" and there is no Article III standing. Okpalobi v. Foster, 244 F.3d 405, 426-27 (5th Cir. 2001) (*en banc*) ("Because these defendants have no powers to redress the injuries alleged, the plaintiffs have no case or controversy with these defendants that will permit them to maintain this action in federal court."). In Lujan v. Defenders of Wildlife, 112 S. Ct. 2130 (1992), a majority of the justices who reached redressability found that it was lacking where "redress of the only injury in fact respondents complain of requires action (termination of funding until consultation) by the individual funding agencies [housed outside the Department of the Interior that were not parties to the suit]; and any relief the District Court could have provided in this suit against the [Defendant] Secretary [of the Interior Lujon] was not likely to produce that action." Id. at 2142 (Scalia, J., joined as to Part III-B by Rehnquist, C.J., and White and Thomas, JJ.). [13] Similarly, the Fifth Circuit sitting *en banc* in Okpalobi held that plaintiffs--providers of abortion services--failed to establish Article III redressability for their claims against Louisiana's governor and attorney general, who were not empowered with a "duty or ability to do *anything*" with respect to the challenged statute that allowed private causes of action to be filed against abortion providers. 244 F.3d at 426-27; *see also* id. at 427 ("We do not challenge that the plaintiffs are suffering a threatened injury. We only say that the injury alleged by the plaintiffs is not, and cannot possibly be, *caused* by the defendants--that is, these defendants will not file and prosecute a cause

of action under Act 825 against these plaintiffs; and that their injury cannot be *redressed* by these defendants--that is, these defendants cannot prevent purely private litigants from filing and prosecuting a cause of action under Act 825 and cannot prevent the courts of Louisiana from processing and hearing these private tort cases."); *accord* Meyers v. JDC/Firethorne, Ltd., 548 S.W.3d 477, 489 (Tex. 2018) (looking to federal law on redressability and dismissing for lack of standing injunction against county commissioner who lacked authority to present or approve plat application) ("The fact that a county commissioner may have 'influence' as a result of his position in the hierarchy of county government is merely a political reality. But even if such 'influence' somehow contributed to Stolleis's decision to 'hold' the plat applications, this political reality does not compel the conclusion that JDC/Firethorne has standing to pursue this injunction against Meyers when Meyers has no legal authority to remedy JDC/Firethorne's alleged harm.... [A]llowing JDC/ Firethorne's claim against Meyers to move forward on these facts would allow a plaintiff to join as a defendant any government official who may have 'influence' over the primary actor with authority over the matter at issue.").

13 Justices Kennedy and Souter agreed that the plaintiffs lacked standing but declined to reach redressability. *See* Lujan, 112 S. Ct. at 2146 ("In light of the conclusion that respondents have not demonstrated a concrete injury here sufficient to support standing under our precedents, I would not reach the issue of redressability that is discussed by the plurality in Part III-B."). Three justices would have found redressability. *See* id. at 2149 (Stevens, J., concurring in the judgment); id. at 2155 (Blackmun, J., joined by O'Connor, J., dissenting).

***4** Courts likewise have found that standing was lacking in claims against municipalities based on the acts of local judges whom they did not have power to control. *See* Eggar v. City of Livingston, 40 F.3d 312, 316 (9th Cir. 1994) ("A municipality cannot be liable for judicial conduct it lacks the power to require, control, or remedy, even if that conduct parallels or appears entangled with the desires of the municipality.") (citations omitted). The Ninth Circuit in Eggar held that the plaintiffs lacked standing to pursue their claims for declaratory and injunctive relief against the city for a municipal judge's policy of imprisoning indigent defendants without offering appointed counsel, explaining that "the City has no control over the state judicial functions of Judge Travis. Thus declaratory or injunctive relief against the City cannot achieve the desired goal of having Judge Travis cease his alleged unconstitutional conduct." Id. at 317. In a case arising in Texas, the Fifth Circuit quoted and adopted Eggar's reasoning in rejecting a plaintiff's wrongful incarceration claim, holding that the "relevant decisions were made, not by a City policymaker, but by a municipal judge acting in his judicial capacity." Garcia Guevara v. City of Haltom City, 106 F. App'x 900, 902 (5th Cir. 2004). The Court also rejected the additional argument that the defendant city had ratified the judge's detention decision. Id. ("Because the municipality did not have the power to control the municipal judge's actions, however, it also did not have the power to ratify them.").

Plaintiffs have not met their burden to establish that the County has any power to control Judge Mack's courtroom prayer practice so as to establish redressability. Nor have Plaintiffs made an argument for such a holding. To the contrary, Plaintiffs allege that "Judge Mack is responsible for devising and implementing the prayer practice," and the only alleged specific act of the County related thereto is that "Montgomery County administers the chaplaincy program from which Judge Mack selects chaplains to deliver prayers in his courtroom." [14] Plaintiffs clarified at oral arguments on January 10, 2018, that they do not challenge the County's maintenance of the chaplains list for use in connection with Judge Mack's duties as coroner, but only the chaplains' role in opening Judge Mack's courtroom proceedings with prayer. [15] Moreover, while Plaintiffs attempt to disaggregate various aspects of Judge Mack's prayer practice and policy, it is only the actual prayers in Judge Mack's courtroom that injure Plaintiffs under the Establishment Clause so as to provide the first element of standing, and those prayers are not attributable to the County. [16]

14 Document No. 22 ¶¶ 15, 17.

15 Document No. 62 at 26:2-16.

16 For example, the deputy's action in locking Judge Mack's courtroom doors pursuant to Judge Mack's order is not in and of itself a violation of the Establishment Clause without Judge Mack's requirement for the oral prayers themselves. Even if locking the doors injured Plaintiffs, however, those acts would not be attributable to the County, nor have Plaintiffs cited any authority permitting the County to instruct its deputies to disregard Judge Mack's courtroom instructions. *See* Burns v. Mayes, 369 F. App'x 526, 531 (5th Cir. 2010) ("As a protocol of the 410th Judicial District applicable to criminal defendants appearing before a judge of the 410th Judicial District, the [substance abuse program] is clearly a state judicial policy, not a County policy. The

> fact that the County's law enforcement officers carried out Judge Mayes's orders is of no moment.") (holding that substance abuse recovery program established by local judge was not attributable to county even though county law enforcement officers carried out judge's orders and the county's website described the program).

Instead of showing how a judgment against the County could redress their injuries, Plaintiffs attempt to shift the burden to the County to identify another government entity responsible for Judge Mack's actions, arguing that in the absence of such an entity, the County necessarily must be responsible for Judge Mack's policy.[17] Plaintiffs cite no authority for this proposition, nor does the caselaw support requiring defendant municipalities to identify a liable party before being entitled to dismissal. *See, e.g.*, Bigford v. Taylor, 834 F.2d 1213, 1222-23 (5th Cir. 1988) (affirming district court's holding that Texas county was not liable for justice of the peace's acts and omissions because Texas justices of the peace--unlike county judges--preside over only single districts and are not policymakers for the county, such that plaintiff could not recover for alleged due process violations). Plaintiffs also emphasize the distinction between a judge's administrative and judicial duties that is often critical to determinations of judicial immunity and municipal liability. *See, e.g.*, Forrester v. White, 108 S. Ct. 538, 544 (1988) ("The decided cases [on judicial immunity], however, suggest an intelligible distinction between judicial acts and the administrative, legislative, or executive functions that judges may on occasion be assigned by law to perform."); Krueger v. Reimer, 66 F.3d 75, 77 (5th Cir. 1995) ("A local judge acting in his or her judicial capacity is not considered a local government official whose actions are attributable to the county.") (citations omitted). For purposes of Article III redressability, however, what matters is not whether Judge Mack's prayer practice is labeled judicial or administrative, but whether the County has power to control the practice. Plaintiffs have not shown that the County has any authority to stop Judge Mack's courtroom prayer practice, so as to allow Plaintiffs' injuries to be redressed by injunctive or declaratory relief against the County.

17 Document No. 7 5 at 20.

***5** In sum, Plaintiffs' pleadings sufficiently allege that their exposure to the prayers conducted in Judge Mack's courtroom constitutes a concrete, actual injury in fact, but they have persisted in their decision not to seek relief from the person responsible for that injury, namely Judge Mack in his individual capacity, even when he retained counsel and attempted to join issue with Plaintiffs on the merits of their claims. Instead, Plaintiffs chose to allege claims solely against an entity that has no power to stop Judge Mack's courtroom prayer practice. Accordingly, because the County did not cause Plaintiffs' injury and a judgment against the County would not redress Plaintiffs' injury, Plaintiffs lack Article III standing to maintain their claims. Plaintiffs' claims are therefore dismissed without prejudice for lack of subject matter jurisdiction.[18]

18 The County requests dismissal with prejudice, but "[a] decision by a court without subject-matter jurisdiction is not conclusive of the merits of the claim asserted, meaning judgment should be entered without prejudice." Griener v. United States, 900 F.3d 700, 705 (5th Cir. 2018) (citations omitted).

IV. Order

It is therefore

ORDERED that Defendants' Motion for Judgment on the Pleadings (Document No. 65) is GRANTED as to lack of standing because Plaintiffs' injuries would not be redressed by a judgment against the County, and, accordingly, Plaintiffs' claims are DISMISSED without prejudice for lack of subject matter jurisdiction.

All Citations

Slip Copy, 2018 WL 6981153

End of Document

Exhibit B

KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 15, 2016

The Honorable Dan Patrick
Lieutenant Governor of Texas
Post Office Box 12068
Austin, Texas 78711-2068

Opinion No. KP-0109

Re: The constitutionality of a volunteer justice court chaplaincy program and opening daily judicial proceedings with prayer (RQ-0099-KP)

Ms. Seana Willing
Executive Director
State Commission on Judicial Conduct
Post Office Box 12265
Austin, Texas 78711-2265

Dear Governor Patrick and Ms. Willing:

You have each requested an attorney general opinion regarding the constitutionality of a judge allowing a prayer at the beginning of courtroom proceedings.[1] In addition, Governor Patrick has requested an opinion on the constitutionality of a "volunteer-led Justice Court Chaplaincy Program." Patrick Request at 2.

As background, the requests arise due to the practice of a sitting Justice of the Peace in Montgomery County who has established a volunteer chaplain program, inviting "all religious leaders of any faith in [his county] to participate." Patrick Request at 3. Governor Patrick explains that initial motivation for the program was that the Justice of the Peace also acts as coroner and is often required to be a first responder to deaths and must investigate the cause. *Id.* In an effort to provide better comfort and counsel to those present at the scene of the death, and to allow him to focus on his role as investigator, the Justice of the Peace established the chaplain program. *Id.* Governor Patrick further explains that the volunteer chaplains, upon request of a deceased's friends and family, "provide care and counsel to the mourners in those first-on-scene situations," and that they are also invited to "give a brief prayer during the opening ceremonies" of the Justice of the Peace's court proceedings. *Id.* Concerned that these practices may be unconstitutional, the State Commission on Judicial Conduct ("Commission") has strongly cautioned the Justice of the Peace against this chaplain program and his current courtroom prayer practice. *Id.* at 2. Your requests ask this office to address the constitutionality of those and similar practices.

[1]Letter from Honorable Dan Patrick, Lt. Gov., to Honorable Ken Paxton, Tex. Att'y Gen. at 1 (Feb. 16, 2016) ("Patrick Request"); Letter from Ms. Seana Willing, Exec. Dir., State Comm'n on Judicial Conduct, to Honorable Ken Paxton, Tex. Att'y Gen. at 1–2 (Feb. 17, 2016) ("Commission Request"), https://www.texasattorneygeneral.gov/opinion/requests-for-opinions-rqs.

The First Amendment to the U.S. Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. CONST. amend. I. "The Fourteenth Amendment imposes those substantive limitations on the legislative power of the States and their political subdivisions." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 301 (2000). Your questions therefore require an analysis of whether the courtroom prayer and chaplain practices about which you ask are in violation of the Establishment Clause.

We first address the Commission's question concerning whether a "moment of silence or a perfunctory acknowledgement of religion by stating words to the effect, 'God save the State of Texas and this Honorable Court'" would be constitutional. Commission Request at 2. Both the United States Supreme Court and the Texas Supreme Court have longstanding practices of opening their sessions with such an invocation. *See Marsh v. Chambers*, 463 U.S. 783, 786 (1983). While the U.S. Supreme Court has not directly addressed the constitutionality of this practice, it has repeatedly acknowledged it in the context of upholding other practices against Establishment Clause challenges. *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1825 (2014); *Lynch v. Donnelly*, 465 U.S. 668, 693 (1984) (O'Connor, J., concurring). The Court has explained that the recitation of this type of phrase at the opening of court sessions is like legislative prayer in that it is "part of our heritage and tradition, [and] part of our expressive idiom." *Galloway*, 134 S. Ct. at 1825. Presumably the Court would not continue the practice of beginning its sessions in this manner if it thought doing so violated the Constitution. Courts do not violate the Establishment Clause by opening court proceedings with a statement such as, "God save the State of Texas and this Honorable Court."

We next address the constitutionality of a chaplain-led prayer like that being performed in the court of the Justice of the Peace about whom you ask.[2] "The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country." *Marsh*, 463 U.S. at 786. The Justice of the Peace's courtroom prayer practice as you describe it is in many ways similar to the Town of Greece's practice of opening its board meetings with prayer, which the U.S. Supreme Court upheld in 2014 against a challenge under the Establishment Clause. *See Galloway*, 134 S. Ct. at 1828. In both instances, religious leaders of any faith are invited to deliver a prayer at the beginning of proceedings. *See id.* at 1816; Patrick Request at 3. No guidance is given about the tone or content of the prayers. *See Galloway*, 134 S. Ct. at 1816; Patrick Request at 3. While the public officials themselves participate in the prayer, the public is not required to do so, and nothing suggests that nonparticipants are disadvantaged or disfavored due to their decision not to participate. *See Galloway*, 134 S. Ct. at 1826; Patrick Request at 4. In upholding the prayers in *Galloway*, the Court emphasized that invocations at the opening of legislative sessions address gatherings of people comprising many different creeds:

> These ceremonial prayers strive for the idea that people of many faiths may be united in a community of tolerance and devotion.

---

[2]Although this office does not find facts in the opinion process, we will assume facts described in a request letter as true for purposes of rendering legal advice in an opinion. *See* Tex. Att'y Gen. Op. No. JC-0134 (1999) at 1.

> Even those who disagree as to religious doctrine may find common ground in the desire to show respect for the divine in all aspects of their lives and being. Our tradition assumes that adult citizens, firm in their own beliefs, can tolerate and perhaps appreciate a ceremonial prayer delivered by a person of a different faith.

134 S. Ct. at 1823. Justice Kennedy further explained that "legislative bodies do not engage in impermissible coercion merely by exposing constituents to prayer they would rather not hear and in which they need not participate." *Id.* at 1826–27 (emphasizing that giving "[o]ffense . . . does not equate to coercion"). A court would likely apply the same analysis to a courtroom prayer to open proceedings.[3]

The Commission raises a distinction between the legislative prayer addressed in *Galloway* and the courtroom prayer at issue here. Commission Letter at 5. Courts have frequently addressed and upheld opening prayers before state and local legislative bodies, and they have done so in part based on the history and tradition of such legislative prayers since the Continental Congress. *See, e.g.*, *Marsh*, 463 U.S. at 787; *Pelphrey v. Cobb Cty.*, 547 F.3d 1263, 1278 (11th Cir. 2008) (upholding a county commission's practice of allowing volunteer leaders of different religions to offer invocations at meetings); *Simpson v. Chesterfield Cty. Bd. of Supervisors*, 404 F.3d 276, 284 (4th Cir. 2005). Courts have said less with regard to prayer in the courtroom. The Commission points to one Fourth Circuit Court of Appeals decision to support its position that judicial prayer, in contrast with legislative prayer, does not survive scrutiny under the Establishment Clause. *See* Commission Letter at 3; *N. Carolina Civil Liberties Union Legal Found. v. Constangy*, 947 F.2d 1145 (4th Cir. 1991); *see also Peters v. Ashcroft*, 383 F.3d 302, 305 n.2 (5th Cir. 2004) (explaining that cases from different circuits do not control the Fifth Circuit's construction of state and federal law). *Constangy* involved the practice of a state district judge beginning court proceedings each day by personally reciting a religious prayer before the litigants and their attorneys in his courtroom. *Constangy*, 947 F.2d at 1147, 1149. Unlike the facts in the scenario here, the judge in *Constangy* did not invite leaders of all faiths to pray. *Id.* at 1149. Limiting the opinion to "the courtroom prayer at issue," the court concluded that the judge's practice was unconstitutional. *Id.* at 1152.

We have found no federal appellate decisions that have directly analyzed courtroom prayer under the Establishment Clause in the twenty-five years since *Constangy* was issued. The *Constangy* court based its decision in part on the distinction it drew between the historical practice of legislative prayer and the lack of such historical practice with regard to courtroom prayer, stating that "[j]udicial prayer in the courtroom is not legitimated under the Establishment Clause by past history or present practice." *Id.* at 1149. However, as discussed above, the U.S. Supreme Court

---

[3]While the Commission urges use of the *Lemon* test to determine whether the Establishment Clause is violated, many of the U.S. Supreme Court's "recent cases simply have not applied the *Lemon* test." *Van Orden v. Perry*, 545 U.S. 677, 686 (2005); *see* Commission Request at 3; *Lemon v. Kurtzman*, 403 U.S. 602, 612–13 (1971). The Court made no mention of the *Lemon* test in *Galloway*, and it is therefore unlikely that a court would apply it to the similar circumstances presented here.

has opened its sessions with the prayer, "God save the United States and this Honorable Court," since at least 1827. *See Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 29 (2004) (Rehnquist, C.J., concurring in the judgment). Furthermore, the Court has acknowledged that the judiciary has a "long-established practice of prayer at public events." *Lee v. Weisman*, 505 U.S. 577, 635 (1992). The Court has also explained that "*Marsh* must not be understood as permitting a practice that would amount to a constitutional violation if not for its historical foundation." *Galloway*, 134 S. Ct. at 1819. Thus, other courts deciding the issue may disagree with *Constangy* that prayer in judicial settings lacks historical foundation.

Prior to the Court's decision in *Galloway*, it used four different tests to evaluate various actions challenged on Establishment Clause grounds: (1) the three-pronged *Lemon* test; (2) the "endorsement" test; (3) the "coercion" test; and (4) the *Van Orden* test based on history. *See Van Orden v. Perry*, 545 U.S. 677, 699–703 (2005); *Lee v. Weisman*, 505 U.S. 577, 584–87 (1992); *Cty. of Allegheny v. Am. Civil Liberties Union*, 492 U.S. 573, 592–93 (1989); *Lemon v. Kurtzman*, 403 U.S. 602, 612–13 (1971). Although it was difficult to predict which test the Court would apply to a specific set of facts, the court in *Constangy* reviewed the constitutionality of the courtroom prayer under the *Lemon* test. *See Constangy*, 947 F.2d at 1147–49.

However, since the decision in *Constangy*, the Supreme Court, addressing facts analogous to those here, provided clear guidance regarding the constitutionality of prayer before governmental entities and has combined an evaluation of history and coercion.[4] As in *Galloway*,

---

[4] Perhaps the clearest explanation for the variety of approaches the Court has utilized in Establishment Clause jurisprudence comes from the late Justice Scalia:

> As to the Court's invocation of the *Lemon* test: Like some ghoul in a late-night horror movie that repeatedly sits up in its grave and shuffles abroad, after being repeatedly killed and buried, *Lemon* stalks our Establishment Clause jurisprudence once again, frightening the little children and school attorneys of Center Moriches Union Free School District. Its most recent burial, only last Term, was, to be sure, not fully six feet under. . . . Over the years, however, no fewer than five of the currently sitting Justices have, in their own opinions, personally driven pencils through the creature's heart (the author of today's opinion repeatedly), and a sixth has joined an opinion doing so.
>
> The secret of the *Lemon* test's survival, I think, is that it is so easy to kill. It is there to scare us (and our audience) when we wish it to do so, but we can command it to return to the tomb at will. When we wish to strike down a practice it forbids, we invoke it; when we wish to uphold a practice it forbids, we ignore it entirely. Sometimes, we take a middle course, calling its three prongs no more than helpful signposts. Such a docile and useful monster is worth keeping around, at least in a somnolent state; one never knows when one might need him.

Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist., 508 U.S. 384, 398–99 (1993) (Scalia, J., concurring) (quotation marks and citations omitted). Cases like *Marsh* and *Galloway* illustrate that the Court has not utilized the *Lemon* test for prayers before governmental sessions.

nothing in the facts described suggests that the Justice of the Peace compels or coerces individuals in his courtroom to engage in a religious observance. *See Galloway*, 134 S. Ct. at 1825. Instead, the bailiff provides an opportunity for individuals to leave the courtroom during the prayer and explains that participation in the prayer will have no effect on the decisions of the court. Patrick Request at 4; *cf. Galloway*, 134 S. Ct. at 1826 (explaining that although board members participated, they did not solicit participation from the public, and nothing in the record indicated that citizens were treated differently based on whether they participated in the prayer). Accordingly, we believe a Justice of the Peace's practice of opening daily court proceedings with a prayer by a volunteer chaplain as you describe is sufficiently similar to the U.S. Supreme Court's decision in *Galloway* such that a court would likely be compelled to agree with *Galloway* that the long-standing tradition of opening a governmental proceeding with prayer does not violate the Establishment Clause.[5]

Finally, we address the constitutionality of a volunteer chaplain program, whereby religious leaders, upon request, provide counsel to persons in distress. *See* Patrick Request at 9. While we have found no court decisions addressing a volunteer chaplain program exactly like that described, courts have upheld chaplain programs in a variety of other contexts. In *Marsh*, the U.S. Supreme Court upheld the Nebraska Legislature's hiring of a chaplain, who was chosen by the Legislative Council and paid out of public funds. 463 U.S. at 784–85, 794. Courts in other jurisdictions have likewise upheld the hiring of chaplains by a county hospital, prisons, and military establishments in order to provide counseling and guidance to individuals who request it. *See Carter v. Broadlawns Med. Ctr.*, 857 F.2d 448, 457 (8th Cir. 1988); *Johnson-Bey v. Lane*, 863 F.2d 1308, 1312 (7th Cir. 1988); *Katcoff v. Marsh*, 755 F.2d 223, 237 (2d Cir. 1985). In each of these cases, the chaplains were paid by public funds, creating more significant Establishment Clause concerns than exist here, where the chaplains serve on a voluntary basis without cost to the taxpayer and only upon request of those who wish to receive the chaplain's assistance. A court would therefore likely conclude that the volunteer chaplain program as you describe it does not violate the Establishment Clause.[6]

---

[5]Nothing in the facts presented to us indicates "that the invocations denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion." *Galloway*, 134 S. Ct. at 1823. The U.S. Supreme Court has explained that were such circumstances to exist, the questions presented would be different, and they could raise constitutional concerns. *Id.*

[6]The Commission has advised this office that it likewise "does not consider a judge's operation of a Court Chaplaincy Program to be an Establishment Clause issue." Brief from Ms. Seana Willing, Exec. Dir., State Comm'n on Judicial Conduct, to Honorable Ken Paxton, Tex. Att'y Gen. at 1–2 (Mar. 4, 2016).

SUMMARY

A Justice of the Peace does not violate the Establishment Clause by opening a court session with the statement "God save the State of Texas and this Honorable Court."

A court would likely conclude that a Justice of the Peace's practice of opening daily court proceedings with a prayer by a volunteer chaplain as you describe is sufficiently similar to the facts in *Galloway* such that the practice does not violate the Establishment Clause.

A court would likely conclude that the volunteer chaplain program you describe, which allows religious leaders to provide counseling to individuals in distress upon request, does not violate the Establishment Clause.

Very truly yours,

Ken Paxton

KEN PAXTON
Attorney General of Texas

BRANTLEY STARR
Deputy First Assistant Attorney General

VIRGINIA K. HOELSCHER
Chair, Opinion Committee

Exhibit C

NewsRoom

7/30/96 St. Petersburg Times 3
1996 WLNR 2378937

St Petersburg Times

July 30, 1996

Section: NORTH PINELLAS TIMES

COURT HOLDS FIRST SESSION

Chief Judge Susan Schaeffer, top photo, officially called court to order for the first time in the Pinellas County Criminal Justice Center on Monday morning, marking the start of business in the new $54-million building. State Attorney Bernie McCabe, Public Defender Robert Jagger and Clerk of Courts Karleen DeBlaker took part in the ceremony, and Sheriff Everett Rice played the role of bailiff. At left, Schaeffer greets the Rev. Donald Kanabay, a priest who has for years worked as a court reporter and said a prayer for the occasion as well as keeping the minutes of the hearing.

BLACK AND WHITE PHOTO, SCOTT KEELER, (2); COLOR PHOTO, SCOTT KEELER

Chief Judge Susan Schaeffer officially called court to order for the first time in the new Pinellas County Criminal Justice Center Monday morning (ran NT); Chief Judge Susan Schaeffer greets the Rev. Donald Kanabay. (ran NT, CITY & STATE); Chief Judge Susan Schaeffer greets the Rev. Donald Kanabay. (ran SE, LA)

TYPE: STAND ALONE ART

---- Index References ----

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (COURT; COURTS KARLEEN DEBLAKER; NEW PINELLAS COUNTY CRIMINAL JUSTICE CENTER; PINELLAS COUNTY CRIMINAL JUSTICE CENTER; SHERIFF EVERETT RICE) (Bernie McCabe; Chief; Donald Kanabay; Donald Kanabay.; Robert Jagger; Schaeffer; State Attorney; Susan Schaeffer)

Word Count: 197

End of Document

Exhibit D

NewsRoom

4/1/85 Hous. Chron. 114
1985 WLNR 1239288

Houston Chronicle

April 1, 1985

Section: 1

Minister turns into surprise witness

AIKEN, S.C.

AIKEN, S.C. - A minister called on to give the invocation before a county court session turned out to be facing charges.

"I didn`t realize he was a defendant in this court when I asked him to lead us in prayer," said Circuit Judge Frank Eppes.

The Rev. Gilbert Gooden of Andrews, S.C., was released from the current court term and told by the judge to return at the next term.

Gooden said he had stood up when the judge asked if there was a precher in the courtroom to lead the customary opening prayer.

The minister was in court to answer resisting arrest charges filed after h is car was clocked at 91 mph on Interstate 20, said prosecutor Bill Weeks.

---- Index References ----

News Subject: (Government (1GO80))

Language: EN

Other Indexing: (AIKEN; REV) (Bill Weeks; Frank Eppes; Gilbert Gooden; Gooden)

Edition: NO STAR

Word Count: 137

End of Document

Exhibit E

MORAN HAS FREE HAND WITH POLICE

Up to New Chief to Pay Political Debts Incurred by Mayor

POLICE APPREHENSIVE

Speculation Rampant Over Probable Shake-Up in Department

Speculation and rumors are rampant over the probable changes to the police department when Police Commissioner Moran is relieved of duties by the Newblock administration, takes office on May 2. The feeling of uncertainty is because every several months changes of the police force, all of whom are wondering where he is to go, has been the custom in Tulsa.

It may be that the new administration will follow the example of the one just succeeded and make no changes, or it may be a fourteenth comb from top to bottom of the police force and then reorganize it according to its own desires.

Such a sweeping change in the personnel is not encouraged by some members of the force, while others are of the opinion a few of the present men will be retained.

Moran is remaining remarkably silent concerning the probable fall of the police department ax. If he has made up his mind to effect radical changes in the force, he is not telling his conclusions. Anyway, he is bewildered right now because of the avalanche of applications from members of the present force and from citizens who would provide protection for Tulsa during the next two years. The applicants have become so thick that Moran told a friend yesterday he is about to call for police protection himself. Moran intimated he has discovered there are more applicants for positions on the police force than there were voters cast for the democratic ticket.

It is understood Harry W. Kinkaid, police commissioner, has given Moran free rein in selecting the men for the force, and that he has virtually informed Moran that because of this freedom in making appointments he will hold the chief responsible for law enforcement. It is understood also that Moran's appointment was not pleasing to Kinkaid, who has apparently lost interest temporarily in his department. Moran's appointment was almost unanimously sponsored by Mayor-elect H. F. Newblock while Kinkaid on evidently favored Tom Meagher.

In the meantime Moran as the new chief of police must bear the brunt of paying Newblock's political debts incurred during the recent campaign. He is finding, however, that here are not enough jobs in the police department to pay the bill.

SEALS DEATH MYSTERY

Man Accused of Murder of College Man Takes His Own Life by Swallowing Poison.

NEW YORK, April 29.—Charles Schloss, "mystery man" in the murder of Elmer C. Drewes, Dartmouth college freshman, who was slain nearly two years ago, is dead today by his own hand.

Leaving behind no explanation of his act and giving no warning before hand, young Schloss, who was 24, drained a vial of carbolic acid in the home of his chum, David B. Este, and died on the way to a hospital. He was a nephew of Daniel Guggenheim, the banker.

The young man's tragic end recalled the mysterious slaying of his college chum, Drewes, which occurred on a lonely road near Philadelphia while Drewes was motoring back to college from Atlantic City. It developed that the slain youth had made a flying visit to New York, where he collected $100 from Schloss. Schloss offered to aid the authorities and established a satisfactory alibi. Later W. P. Britton was accused of the crime, tried and acquitted.

The murder of young Drewes has been relegated to the list of "unsolved mysteries."

Pilots in the United States army air service last year in 29 fields throughout the country made cross country flights totaling 5,863,981 miles. This is a distance 202 times around the world at the equator.

Hero of the World War Whom Legion Will Honor Thursday

Manlove Meyers.

COFFEY ASKING JUDGE'S OFFICE

Ex-Assistant to County Attorney Announces as Candidate

W. L. Coffey, member of the Tulsa county bar with offices in the Mayo building announced Saturday that he would be a republican candidate for district judge in the fall primaries. Coffey will three months ago was an assistant in the county attorney's office. He resigned shortly after the first of the year and entered private practice. In a statement made at the time he announced Coffey said:

"I nominated and elected I will to the best of my ability fill this office with credit both to myself and constituents. I will be very mindful that I am a servant of the people and will try to fill the office aged do my duty without fear, favor or oppression."

Coffey has been a citizen of Oklahoma for 12 years and a resident of Tulsa county for nine years. He was born and raised in Kentucky where he was admitted to the bar in 1904, having been actively engaged in the practice of law since that time.

UNION MEN EXPLAIN

Refusal to Continue in Rail Hearing Protest Against Board Action, Labor Leaders Declare.

CHICAGO, April 29.—"Our refusal to continue in the rail board hearing yesterday was a protest against the board depriving employes of their right to have wages fixed as 'just and reasonable' compensation," a statement issued by the railway employes' department of the American Federation of Labor said today in explaining the union men's walkout from wage dispute hearings. B. M. Jewell, president of the railway employes' department, representing 2,000,000 workers, led the walk.

The walkout came when Ben W. Hooper, chairman of the board, ruled that testimony from organizations, not parties to wage disputes, was admissible as evidence in the employes' pay battle.

"About a year ago the board allowed testimony of the ability of a railroad to pay wages to affect the fixing of a fair wage," the statement said. "Now the board has gone a step farther in receiving testimony of the financial ability of the railroads to pay."

Women Demand Big Clean-up.

BALTIMORE, April 29.—A nation-wide clean-up in political parties is demanded by the league of women voters. The 2,000 delegates to the third annual convention of the league which formally adjourned today will go back to their home states to demand an end of "boss rule" and equal place for the women in all party committees and conventions.

SOLDIER BROUGHT HOME FOR BURIAL

Tulsa to Pay Tribute to Son Who Sacrificed Life in War

Manlove Meyer, Tulsa hero of the World war whose courage in the hour when he made the supreme sacrifice inspired the naming of the barracks of Oklahoma military academy at Clarendon in his honor, will be brought home Sunday morning after a long journey from France aboard the latest transport with its cargo of soldier dead. Full military burial will be given his body Wednesday afternoon by the Carson post, American Legion, with Colonel Barrett and student representatives of Oklahoma military academy in attendance.

Funeral Wednesday.

Meyer was the oldest son of Leo Meyer, a former state official and now the commissioner for the Cosden company. Funeral services will be held at 2 o'clock Wednesday afternoon at Temple Israel with Dr. Joseph Blatt of Oklahoma City officiating, and later at Rose Hill cemetery. Ralfe P. Craig, chaplain of Joe Carson post, will deliver the American Legion ritual.

Meyer enlisted from Oklahoma City, at that time the family home, in 1917 and after training at Camp Travis sailed for France in June, 1918, with Co. A, 357th regiment, 90th division. He saw action service as special gas officer with the rank of sergeant and on the night of September 13 in the St. Mihiel sector after successfully conducting a raid at the head of his own squad received a machine gun bullet in the end raid which he offered to lead to fill in a vacancy and died the next morning. The raids were part of a series paving the way for the Argonne drive. He was 23 years old at the time of his death.

The narrate received their first complete account of the manner in which the boy met death from Congressman E. B. Howard, a friend of the family, who talked with the boy's comrades upon their arrival at Newport News, Va., after the close of the war. Howard also learned the burial place which was in grave No. 230, American cemetery, Belleau wood, Toul. In the department of Maurice E. Moselle.

Portrait in Barracks.

A large oil painting of Meyer hangs in the barracks building of Oklahoma military academy, his name because of his record of heroism and self-sacrifice having been given the two-story building with its 60 rooms upon its completion.

Prior to the funeral Wednesday, legion men in full uniform will assemble at the legion headquarters at 1:30 o'clock. The casket will be borne on a limber guarded by national guardsmen under Capt. Roy Dunlap.

FIND NEED FOR HOSPITAL

Temporary Quarters in County Jail Deemed Insufficient.

VINITA, April 29.—Discussion of the building of a hospital in this city is being revived, a number of physicians and representative citizens having met Wednesday for this purpose. About a year ago it was thought that the old jail, abandoned because of the new jail in the courthouse, could be used as a county hospital, but the commissioners did not take any action along that line.

Since that time there have been several efforts made to create enthusiasm for the building of a hospital here. A large hospital is not required, but only one that will meet the needs of the city, to which other units may be added as the necessity arises.

Strikebreaker Injured.

PORTLAND, Ore., April 29.—Frank Henderson, waterfront strikebreaker, was seriously burned here today when oil of mustard was thrown into his face, it is alleged, by Hollis Straw, union man. Other strikebreakers, who were being taken to work in an automobile bus with Henderson, were slightly burned by the powerful fluid, which was thrown into the conveyance.

Hit Drunk Husband With Ready Hammer, Believed Him Killed

CHICAGO, April 29.—"I want to confess. I killed my husband," sobbed a young mother haggard and frail, as she entered a local police station last night.

Then there was the story of the three babes at home, of the husband coming home intoxicated, and striking one of them.

"I was frantic," she declared. "There was a hammer lying near me, 606 with which I had been building a little swing for the baby. I grabbed it and struck him on the head. There isn't any more to tell. He's lying dead on the floor."

Shortly after, officers were investigating. Came a call from a lieutenant at a more remote station.

"My men just returned from the Newcastle avenue address," he said. "Tell Mrs. Kirkland it's all right. Her husband wasn't hurt much. He says he wants her to come on back home, and he'll quit drinking."

TULSA TO KNOW ITS POSTOFFICE

Benedict Announces Plan for Acquainting Public With Conditions

That "postal improvement week" opening tomorrow and closing Saturday night will be a big success was the belief of Omer K. Benedict, acting postmaster, who said yesterday that the stage was all set. All of the civic clubs and other organization in the city are to attend the postoffice during the week in a body. In an invitation sent to the various civic organizations Benedict said:

Delay Is Costly.

"An average of 4,000 letters are delayed in delivery in Tulsa postoffice each day on account of incorrect or insufficient address. Not only are they delayed but they cost the government an average of one penny each—$40 a day. When you bear in mind there are 52,000 postoffices in the United States, you get day; the Business Women's club and the Chamber of Commerce Friday and the City club on Saturday. The high schools and various clubs from the grade schools will visit the office at various times during the week.

"An average of 20,000 letters are delayed in dispatch each day in the Tulsa postoffice on account of not mailing earlier in the day.

"The public can easily correct both these evils, can help the postoffice render better service, benefit all patrons, lighten labor and lessen taxation.

"To this end the Tulsa postoffice will maintain the open door policy and 'open house,' during Postal Improvement week, May 1 to 6, inclusive. The public is invited to visit the postoffice, take a journey through the workroom and familiarize itself with how it can improve its postal service.

Clubs to See Office.

"The trip will be worth while—you are welcomed!"

Each civic club this week will be attended by a postoffice representative who will make a short talk on the purpose of the week and then show the club through the office. The Civitan and Kiwanis clubs will attend Monday; the Ad club and Junior Chamber of Commerce on Tuesday; the Rotary, Secretaries and Co-operative clubs on Wednesday; the Real Estate exchange and the Lions club on Thursday.

JUDGE BANS LABOR PICKETS

Members of United Textile Workers Enjoined in Strike Move.

PROVIDENCE, R. I. April 29.—Presiding Justice Tanner of the superior court today issued a temporary injunction to the officers and all members of the United Textile Workers of America to stop picketing in the vicinity of the Jenckes Spinning company mill in Pawtucket. The injunction also prohibits the United Textile workers from picketing the homes of employes.

25 Moonshiners Confess.

MANCHESTER, Ky., April 29.—Following a prayer in a crowded courtroom by an aged minister the lawlessness cease in the mountains 25 moonshiners, who had confessed to moonshining yesterday announced their reformation and asked permission to bring their stills into the court. The request was granted and the defendants departed for their homes in the hills.

Exhibit F

Waterbury.—This city is building a $50,000 garage to house cars owned by the city.

DANIELSON'S CASINO.
FRANK WHATMOUGH PLAYS
BOWLING and POCKET BILLIARDS
4 ALLEYS 4 TABLES
Bowling Leagues Already Formed
Alleys will open Saturday, Oct. 11th. Prize every Saturday.
YOU ARE INVITED.
FRANK BARBER, Prop.

Must Have Our Fun.

Of course, it won't do to believe everything you hear, but usually it is all right to tell it anyhow.—Wilmington News.

Norwalk.—Mayor Jeremiah Donovan donated his salary as mayor for the last year to the Norwalk hospital. The check for $1,000 was received by Samuel Rodgiber of the hospital's executive committee.

DANIELSON AND PUTNAM NEWS

DANIELSON

Irving W. Davis, deputy state commissioner, will be at New London this (Thursday) evening to attend a meeting of the New London Horticultural Society.

Rev. J. W. Edwards will address a meeting of the Mothers' club to be held this afternoon at the home of Mrs. Waller Anderson, on Winter street.

Henry C. Johnson of Boston was a visitor with friends in Danielson on Wednesday.

Mr. and Mrs. Ransom Liner have united with Mt. Calvary Baptist church at Norwich, where they have a number of friends and where Mrs. Liner expects to take up church work at an early date.

At this week's meeting of the Bohemian club a number of applications for membership were acted upon. The membership of the club is now about 200.

The temperature dropped to 28 degrees in Danielson early Wednesday morning and ice formed for the first time in this vicinity this season.

St. Alban's Sewing society food sale, Friday, 2 to 5 p. m., at Mrs. E. H. Keach's home.—adv.

Wednesday was a wonderful opener of the hunting season, the sportsmen said, being cool and clear.

It does not seem likely, it is believed here, that active work on the construction of the state highway links between Hampton and Brooklyn and Killingly and Attic Rest, at the Rhode Island line, will be undertaken this year.

Treasurer Clarence A. Potter of the Brooklyn Savings bank was in Hartford Wednesday on a business trip.

Rev. Albert Vachon left Wednesday morning for Cheshire, Mass., where he is to begin his pastorate at once, the Berkshire Baptist association meeting at his church today (Thursday).

Miss Henrietta A. Pales of Providence visited friends in Danielson on Wednesday.

Railroad police continue to make periodic visits here, to see that the rule against persons trespassing on the tracks is not disobeyed.

The selectmen are to hold their organization meeting today. The board this year will be made up of the same members as finished out the last fiscal year—John A. Gilday, James Bacon and Alcott D. Bagles.

Cider mills in this vicinity are said to be rushed with business and running out rivers of apple juice.

The regular bus line service inaugurated between Danielson and Brooklyn and Hiverhyn and Wauregan and Central Village is much appreciated in Brooklyn, which never has had a regular service of the kind.

Members of the Windham County Agricultural Society will hear next Saturday, when the executive committee meets, the financial outcome of the recent successful fair.

It is persistently rumored that the plant of the Danielson Cotton company, which has been operated for several years past by the New England Cotton Yarn company, is to pass into control of New York interests.

A strong defence will be made in the superior court at Putnam in the interest of Ernest Welch, of Attawaugan, a youth of 16 who is charged with the abuse of a female child.

About 50 members were out for the first drill this fall of Co. F, State Guard. The company will drill regularly from now on, Monday nights. On Thursday evenings there will be a school for officers. Lieut. Walter Palmer Brown will be recommended for appointment as second lieutenant to succeed Lieut. Ernest Gilday, resigned.

At his home in North Foster, Wednesday, Oct. 8th, funeral services for James Allen Stone were conducted by Rev. Walter B. Greene, of Providence, formerly pastor of the church at East Killingly. Burial was in the Lisbon Stone cemetery. The bearers were Elmer Stone, Elmer Hopkins, Charles Stone, James Lester Sanderson, Jr., and George Phillips. A. P. Wood was the funeral director. The music at the funeral services was sung by Mrs. E. Wood. Many friends from the Danielson attended the funeral.

A number of Danielson people will be at the Children's home in the Sawyer district of Putnam today, to attend the annual meeting of the board of management and committee of visitors of the institution, which is the home of a number of children from this town.

After having let out by contract for the past three years the upkeep of the highways of the town, Brooklyn taxpayers have voted to return to the system so long in vogue in that and other towns—repairing the roads under the direction of the selectmen. Though it is claimed by some Brooklyn taxpayers that money has been saved by letting this work out on contract, the voters have decided to return to the old system as better than the one in present use. The present contract will expire in December.

Mrs. Thomas Sullivan of Phenix, R. I., visited relatives in Danielson on Wednesday.

A motor bus was used Wednesday to convey prisoners from the county jail at Brooklyn to the superior court at Putnam.

And now there is much curiosity among the taxpayers of Killingly as to what assessments have been placed on property as the result of the general re-valuation work upon which the assessors were engaged for months.

Scarcity of both skilled and unskilled labor is holding up a number of buildings or improvements that are under way in the town of Killingly. The demand for help seems to be as great as during the period of the war.

Principal Lucie C. Lusk of the Scituate street school is assisting during spare hour as a member of the clerical force at the postoffice.

Officials of the Danielson Business Men's association have written New Haven railroad officials relative to allowing the south-bound evening passenger train, due here at 6.15, a longer stop in Danielson, that express matter may be unloaded with greater ease than is present with the short stop now allowed.

PUTNAM

The October term of the Windham county superior court, criminal side, opened here Wednesday morning, Judge Frank D. Haines presiding. During the course of the day a number of prisoners were presented and their cases disposed of.

At the opening of the court prayer was offered by Rev. S. J. A. Rodgers, pastor of the Methodist church.

Everett Lovey, alias Peter Lovely, of this city was before the court to answer to the theft, July 8, last, of marine's uniform. When the complaint was read Lovely set up the objection that his name was not Peter, as set forth in the information, and was apparently very much perturbed because his name was not entered proper. Later in the day, when the complaint had been amended, he pleaded guilty to stealing the uniform, which was property of George W. Wise.

State Attorney C. E. Searle told the court that Lovely took the uniform, completes rig, from the room of Wise, who had just been mustered out of the service, and, after changing it, he and departed for Worcester, where he later appeared at a police station, asking help, was suspected of not being the real thing and arrested.

Public Defender C. L. Torrey stated to the court that Lovely was drunk at the time the uniform was stolen.

Mr. Searles told the court that Lovely had been in trouble, had been in the reformatory at Concord, Mass., and in jail in Worcester and Brooklyn.

Judge Haines sentenced Lovely to serve six months in the jail at Brooklyn.

Wearing the uniform of the United States army, the famous "T. D." insignia and three years' service chevrons on his sleeve, Frank Wallenda of Willimantic, a young man of 24, pleaded not guilty to a charge of having committed rape, June 28 last, upon the person of Florence M. Grant, 18, of Willimantic. Later in the day, after a conference between State Attorney Searle and Public Defender Torrey, Wallenda changed his plea to guilty of attempt to rape.

In explaining the case Mr. Searls told the court that he had been given to understand that Wallenda had been much in he company of the Grant girl and that their relations eventually led to happenings that resulted in the young man's arrest on the serious charge mentioned in the complaint. He said that he did not understand that Wallenda was a vicious character, but he had pleaded guilty to having committed a crime and not much could be said in extenuation of that fact and the official added that he believed there should be some punishment.

In the former soldier's behalf, Mr. Torrey stated that Wallenda had become infatuated with Miss Grant; that he wanted to marry her, but this had been opposed by the girl's foster mother. Eventually the couple had gone away together and for a time were on a village in Rhode Island, near Westerly, but while there they had occupied separate rooms.

Sentence in the case of Mr. Wallenda, Mr. Torrey cited that the young man had volunteered for service in the army early in the war, enlisting in July, 1917, and he had served a year and three-quarters overseas. Mr. Torrey stated that Wallenda had become infatuated with Miss Grant; that he wanted to marry her, but this had been opposed by the girl's foster mother. Eventually the couple had gone away together and for a time were on a village in Rhode Island, near Westerly, but while there they had occupied separate rooms.

In sentencing Wallenda to the state reformatory at Cheshire, Judge Haines said that he hoped the young man would learn a trade there and otherwise benefit from his stay in the institution.

Another young man sentenced to the reformatory at Cheshire Wednesday was Omer Lussier, 17, of this city. Lussier pleaded guilty in court to having stolen, April 11, the sum of $322, from his home here. The crime was committed while members of the family were attending a church service and there was no one at home. The money belonged to Alphonse Lussier, the prisoner's father.

It was shown in court that Lussier went away and did not get caught until about two months afterwards. In the meantime he had been living in Worcester and in Wheatmill-street, Putnam, and in Worcester is where the latter place he was arrested.

Given a chance by the court to explain his actions and to say anything he cared to in defence of his conduct, Lussier did not avail himself with more than a few words in which he expressed a wish to be given a chance.

It was explained to the court by counsel in the case that Lussier had gotten out of hand insofar as home management was concerned; that he did not get along well with his stepmother and that his father had not shown sufficient interest in the boy's plight to appear in court in his behalf.

Ernest Welch, 16, of Attawaugan, pleaded not guilty to the charge that, September 2, last, at Attawaugan, he was responsible for an attempt to abuse a female child, Bessie Weeks, ages 5 years. Welch was represented by Attorney E. L. Darbie, of Danielson. It is expected that there will be a trial of the case.

The remainder of Wednesday's session was given over to conferences over other cases on the criminal list.

Members of Anselm Mayotte post, American Legion, are making an enthusiastic drive in the interest of the carnival they have arranged and have done so well with the sale of tickets that orders to print more were issued on Wednesday. One member of the post has sold 158 tickets.

Experience, George V. Hobart's great play, was presented at the Bradley theatre Wednesday evening before an audience that taxed even the standing room. The play was presented by an admirable company and is regarded as one of the best attractions Putnam has seen. For the first time in the history of the Bradley theatre the advance sale of tickets was sufficient to sell out the house as early as Monday evening, leaving only standing room available for those who came to buy on Wednesday evening.

At the Empire theatre, recently leased by Jacob Alpert of Pawtucket, a pitched floor is being put in and the house is being equipped with new seats. The alterations will be completed during the present month, it is expected.

It was announced Wednesday that the committee of the Putnam Country club has arranged for another tournament for Sunday of this week, this even to be open to club members only, and a large field of entries is expected.

The temperature took such a sudden drop during the early hours of Wednesday that ice formed on pails of water left standing out of doors. The frost was very heavy and several killed many tender vines, that heretofore escaped damage this fall.

Ernest L. Kent has purchased from the J. W. Carter estate, now in process of settlement, two houses on Grove street, next east of the central office of the Southern New England Telephone Company's building.

Ensign and Mrs. Asher will come here from Hartford Saturday next to be present at the Harvest Festival celebration that has been arranged for that day and Sunday by the Salvation Army.

Crews of the state entomological department are not at work in the towns of Woodstock and Eastford, doing scouting and other such work.

The woodland territory outside this city was fairly alive with hunters on Wednesday, the first day of the open season on birds. Numbers of quail and a few woodcock were shot.

County Detective W. E. Jackson of Willimantic was in Putnam Wednesday attending the session of the superior court.

Rev. Boynton Merrill of the Congregational church in this city is to assist in the Pilgrim Memorial fund drive in New London county, and is to be at Groton Wednesday, Monday and Monday, Friday will find him engaged in the work at New Haven.

Italian Premier Annoyed By Fiume Episode

Premier Francesco Nitti, of Italy, who greatly deplores the advent of Gabriele d'Annunzio of entertaining the city of Fiume at the head of 5,000 men. Premier Nitti has now declared that he was determined to act in a manner to avoid grave conflicts.

Exhibit G

THE DAILY CHIEFTAIN

VOL. 3, NO. 157 VINITA, IND. TER., SATURDAY EVENING, APRIL 6, 1901. PRICE 10c WEEK

MRS. E. R. WALLER

Is Decided by a Popular Vote of the People of Vinita to be the

HANDSOMEST LADY

In the City in an Impartial Contest Preliminary to the Choosing of the Fairest Daughter of the Territory Embraced in the Louisiana Purchase.

Mrs. E. R. Waller is the handsomest lady in Vinita, being so decided by a vote in which all the people, irrespective of whether they were Chieftain subscribers or not, were invited to participate.

The contest for the purpose of honoring the handsomest lady residing in the territory acquired by the Louisiana purchase, was inaugurated by the Globe-Democrat of St. Louis.

That paper requested the leading paper of the towns and cities of the states and territories included in the purchase to ascertain the name of the prettiest lady—married or single—in their several localities. Each state and territory will send a representative to St. Louis, she being furnished a chaperon and all her expenses paid, where she will receive many social honors.

From the aggregation of beauty the handsomest lady in the acquired territory will be chosen. Not by standing them in line, but by an unannounced committee who will, without impertinence, view the charms of the ladies at a swell reception at which all the world's notables in St. Louis at the time of the exposition will be present.

To represent Indian Territory a lady will be chosen by a committee from the photographs of the choice of each town.

The contest was arranged so that the poorest could compete with the richest. Only one vote was allowed each individual. This, of course, debarred any person from purchasing a large number of papers and voting a bulk of coupons for their especial favorite.

No person interested in the result was permitted to be present when the ballots were counted because each ballot bore the name of the voter, and it was desired that no lady mentioned should know who had failed to vote for her.

Mr. Keller Walker supervised the counting of the votes.

Mrs. J. R. Carselowey was second choice.

Here is the vote:

Mrs. E. R. Waller, 166; Mrs. J. R. Carselowey, 107; Mrs. Claude Walton, 81; Miss Fannie Knight, 55; Miss Carrie Van Pelt, 52; Miss Agnes Ficklin, 43; Mrs. Ed Miller, 41; Miss Mabel Miller, 37; Miss Ida Beatty 36; scattering, 44. Total, 662.

Dawes Commission Dates.

The Dawes commission has fixed the following dates and places for the enrollment of Cherokee Freedmen:

Fort Gibson April 1 to 30 inclusive in 1901.

Vinita May 6 to 25, 1901.

Nowata May 29 to June 20, 1901.

FEDERAL COURT.

The First Session Convened at Muskogee Twelve Years Ago.

On April 1, 1889, twelve years ago today, the first United States court ever opened in the Indian territory, and what is now Oklahoma territory, was opened in old Phoenix hall in the town of Muskogee, says the Times of that city.

On the morning of April 1st, Judge James M. Shackelford, United States Attorney Z. T. Walrood, United States Marshal T. B. Needles and the clerk of the United States court for the Indian territory, William Nelson, arrived on the early morning train about seven o'clock. They were met at the depot by a committee of the citizens, headed by C. W. Turner, and conducted into the dining hall which was then kept by J. H. McQuarie, now of Wagoner, near where the Union depot hotel now stands.

Each of the court officials above named wore a silk hat when they stepped off the train, and after they had eaten their breakfast they were conducted to some rooms that had been prepared for them in a building just north of where the Union Depot hotel now stands and, after they had been assigned to their quarters, Mr. C. W. Turner called Mr. Needles to one side and told him in a very confidential way that they had better leave their silk hats in their rooms as the cow boys were liable to take a crack at them if they wore them up town. That was the last that was ever seen of those plug hats. Col. Needles says he gave his to a negro, and we think it is the one that Ketch Lorin wears around town now.

About 10 o'clock the officials, together with a large number of lawyers who had congregated here, went to the old Phoenix hall where court was opened by the above named officials, Rev. B. Y. Brice, of the Methodist church, at this place, opened the court with prayer.

The court was only in session a short time on the morning of the first when it adjourned to meet on the morning of the second. Judge Shackleford and Maj. Walrond formulated rules governing the admission of attorneys to practice in the court which were promulgated that evening and on Tuesday morning a large number of lawyers were admitted to practice, among them Maj. Walrond, who was the first lawyer admitted to practice in the court. D. Stewart Elliott, of Coffeyville, Kansas, who was killed a year ago in the Philippines, was the second, T. N. Foster, of South McAlester, the third, N. B. Maxey, of Muskogee was No. 4 and W. A. Pasco, W. M. Harrison, J. C. Ralls, S. E. Jackson, Col. E. C. Boudinat and others.

The first case filed in the United States court was filed by E. C. Boudinot and was a replevin case for a stallion, and Bud T. Kell served the writ as deputy of Marshal Needles, and it was amusing to hear Marshal Needles instruct Bud how to serve the writ.

The first case tried in the United States court by a jury was the case of George Waller vs. R. M. Gilmore, and tried on the 3rd day of June, 1890. The suit was brought by J. G. Ralls, now of Atoka, for George Waller for damages claimed to have been inflicted on Waller by Gilmore with an ax. The jury returned a verdict for a small amount for the plaintiff.

Presbyterian Services.

Rev. Curtis E. Long of Mulhall, O. T., will occupy the pulpit at the Presbyterian church Sunday forenoon and evening, and it is desired that every member of the church be present. The services will be marked with exceptionally fine Easter music and Dr. Long's reputation as a pulpit orator is such as to insure interesting and instructive discourses.

Easter Service.

Tomorrow at the Christian church the pastor at the 11 o'clock service will discourse upon the subject: "The Resurrection a Fact." At 9 p. m. the members of the Sunday school will give an Easter service for which an interesting program has been prepared.

Methodist Church.

Tomorrow forenoon at the Methodist church Rev. C. L. Browning will conduct special Easter services and communion. The choir music has been arranged so as to be especially appropriate for Easter.

Exhibit H

Orleans County Monitor.

Barton, Vt., June 13, 1881.

New Advertisements To-Day.

Wm. Long, Barton. Notice

C. & P. R. R. TIME TABLE.

Passenger Trains Leave

NEWPORT—South—7:30 a m; 1:25 p m; 3:30 p m; 11:30 p m. North—5:30 a m; 7:03 p m.

COVENTRY—South—8:05 a m; 2:43 p m. North—2:57 p m; 7:00 p m.

BARTON LANDING—South—8:16 a m; 1:46 p m; 6:02 p m; 11:32 p m. North—5:33 a m; 2:58 p m; 6:47 p m; 6:47 p m.

BARTON—South—8:21 a m; 1:58 p m; 6:32 p m; 11:36 p m. North—5:21 a m; 2:48 p m; 6:29 p m; 6:30 p m.

SOUTH BARTON—South—8:47 a m; 2:50 p m. North—2:43 p m; 6:18 p m.

CLARK'S—South—9:01 a m; 7:18 p m. North—1:51 p m; 6:09 p m.

WEST BURKE—South—9:12 a m; 7:23 p m; 12:58 a m. North—3:02 a m; 1:35 p m; 4:00 p m; 5:51 p m.

LYNDONVILLE—South—9:36 a m; 2:48 p m; 7:59 p m; 12:24 a m. North—2:43 a m; 1:05 p m; 3:44 p m; 5:30 p m.

MASONIC.

Regular Communication of Orleans Lodge, No. 55, F. & A. M. Friday, July 8.

LOCAL NEWS.

Albany.

The Fourth.—Independence Day will be observed here by a suitable celebration. There will be a popular oration, a gathering of the sunday-schools of the town, fireworks in the evening, &c. Look out for the big posters containing further announcements.

The Monitor ought to have had notice of the following last week: Rev. S. B. Brigham and wife were thoroughly surprised on the 27th ult., (it being the twentieth anniversary of their marriage) by almost one hundred of their friends, who gathered to do them honor on that day. At the proper time a table was revealed, covered with silver and china ware with other presents, to be presented to Mr. and Mrs. Brigham. M. B. Shafy made a felicitous presentation speech, which was responded to by Mr. Brigham. The surprisers brought in an abundance of refreshments which the large company did ample justice to at the tables. The occasion was very enjoyable in every sense. Mr. Brigham's people have found a warm place in the hearts of the people here, who were glad of this opportunity to show their friendship and appreciation.

Barton.

Cold weather during June thus far. The frosts of last week did considerable damage.

Business is brisk at the depot store and Mr. Scott is selling great quantities of goods.

The Catholics had special services at their church yesterday, with a profuse display of flowers.

Don't go fishing and boating on Sunday; public opinion does not sanction it, nor does the Revised New Testament.

Do not forget that there is a new tailor's shop in Barton where good work is done and the best clothes are sold. See advertisement.

The total eclipse of the moon came yesterday morning as advertised, though the numbers to witness the spectacle were small.

The trustees of the village expect to do considerable new sidewalk, repair the old and put the streets in a good condition as soon as possible.

The Ladies' Society and others interested are cordially invited to meet at the Congregational parsonage Friday, from 2 to 6 o'clock p. m. Sewing will be provided.

The July number of the *North American Review* will contain an exhaustive article on Indian affairs by Carl Schurz, and a very lively one on "The Power of Public Plunder" by James Parton.

The Orleans Conference of churches sent the following delegates to the State Convention, held at St. Johnsbury this week: Messrs. D. M. Camp of Newport, J. Hill of Barton and D. E. Curtis of Lowell.

The large barn which is being built by Mr. G. E. Rowell was raised last Saturday. The frame is a very good one. There were no mistakes in the setting up, which was done by Mr. Christie of Glover.

At the town meeting held on Tuesday last it was voted to raise 40 cents on a dollar of the list for town taxes. No action was taken on the matter of buying a poor farm, so that matter will pass over for the present.

The Boston *Journal* reports that President Raymond has purchased Owl's Head and the old hotel at foot of the mountain and will put the hotel in repair. Mr. Raymond is doing much to invite summer travel to Memphremagog.

Charles Berry of Sutton, who worked about this village last winter and spring, had his fingers badly jammed in a shop at St. Johnsbury some weeks since, afterwards getting cold in them, causing lockjaw and the necessity of having one finger amputated.

Two little girls, one four years old, and the other three, were lately heard conversing in this village, when the larger one said to the smaller, "you mustn't say hello to folks, don't you know the bible says, 'Thou shalt not say hello?'" This new commandment probably appears in the revised New Testament.

The Aid Society of the M. E. church will hold a strawberry festival at Robinson's Hall on Wednesday evening next, furnishing strawberries and cream, cake, ice cream, &c. Good music is expected. As the proceeds go entirely for the purposes of the church, it is hoped that all interested will attend and assist in the work of preparing the festival.

Our readers ought all to understand, if they do not, that we are pleased to report everything of importance in regard to all denominations, societies, clubs and orders, which have for their object the good of society. If those interested will inform us or our reporters, they will confer a favor on us and perhaps do good to the causes they represent.

The North Troy *Palladium* has been sold by M. T. Hatch to Mr. Butterfield, for some time a reporter and an employee in the office, and Mr. Jamason, long foreman in the *Citizen* office. They are intelligent, steady and reliable young men, and will doubtless make the *Palladium* a much better paper than it has been heretofore. We wish the new proprietors success.

Hon. Isaac N. Cushman of Irasburgh has been appointed Judge of Probate for this county. Judge Cushman is well versed in probate law, obliging and prompt in the administration of his business affairs, and will make a capital official for this position. It is presumed that his son, Henry, will do the clerical work of the office chiefly; if so it will be very neatly and accurately done.

Children's Day was observed yesterday at the M. E. church with an address to the children in the forenoon by Mr. Wheeler, pastor, and special speaking exercises in the afternoon. Miss Shaw, of the Universalist church, being present in the afternoon, made a short but very appropriate address to the children. The decoration of the church was perhaps the most beautiful ever witnessed in this church.

Isn't it about time for the Passumpsic R. R. folks to build suitable depots at this place and Barton Landing, to accommodate the business of these places? The road is in a prosperous condition and there is certainly no reason why the old depots, built twenty years ago, should not be replaced by clean, capacious, convenient buildings, that will do credit to the road and be acceptable to the public.

A telephone company has been formed here and a Bell telephone placed between the depot and post-office. The work of the machine is entirely satisfactory, and conversation can be carried on almost as readily as between two persons in the same room. Messages are sent for five cents. This will be a great convenience to business men and others in the place, and it ought to receive sufficient patronage to pay running expenses.

Neighbor Chase of the *Union* is worried lest we omit to give all the particulars about "rum raids" in this vicinity. When we can have a thorough, effectual, impartial rum raid that means business, we will gladly report it in full detail; but when some poor fellow with a treacherous appetite happens to fall into trouble, we are not sure it will do him or the cause of temperance much good to herald the fact that he has been drunk or has been fined.

The following are the M. E. quarterly meetings to be held in St. Johnsbury district this month and next:

JUNE.	Q. C.	S. Serv
Lyndon,	14	12
Lyndonville,	14	12
Island Pond,	18	19
Barton Landing and Brownington,	20	19
Glover and West Glover,	21	19
Barton,	21	19
Sheffield and Wheelock,	25	26
Hardwick,	25	26
Wolcott,	23	26
JULY.		
Holland and Morgan Corner,	2	3
Morgan Center and Charleston,	2	3
Derby,	9	10
Newport and Newport Center,	16	17
Greensboro, Stannard, W. Wheelock,	23	24

Those who so suddenly rallied at the fire whistle on Thursday evening were somewhat disappointed at finding no fire, but they saw that the fire engine was ready for business and playing a powerful stream in eight minutes from the sound of the whistle. The object in making the alarm was to see how quick the engine could be got in operation after an alarm. Hereafter when the whistle blows a fire alarm, it will mean serious business, and that only.

Barton Landing.

O. A. Putney had two brass kettles stolen from his door steps last Wednesday night.

B. G. Jones has rented his house to Charles Allen of Newport, and has moved to St. Johnsbury.

The Northern Association of Universalists will hold its annual session this week, Wednesday and Thursday, at Derby Line. The Passumpsic R. R. carries for fare one way. All cordially invited to attend.

Rev. Annette J. Shaw, *Clerk.*

A few young men (not members of the fire company) from this place who attended the fire at Newport, instead of helping with the engine enough to pay their free ride and supper, spent their time in drinking. They have since been persuaded to tell where they got their liquor.

Brownington.

Stephen Burroughs will carry the mail from the Landing to the Center.

West Charleston.

O. F. Alton has gone to Demick's mills Stanstead, P. Q., to work through the summer.

Miss Eva Ingalls has returned from Meredith, N. H., and is teaching school in the Buck district at East Charleston.

A pleasant surprise party occurred at the house of David C. Cook, Wednesday evening, June 8, it being a marriage anniversary.

Jack Frost made a flying visit in this vicinity the 5th, and gardens and potato fields that were planted early, were a sorry sight to behold on the morning of the 6th. It is about as well in this cold climate for people not to be in a hurry about getting their seed into the ground.

Coventry.

James Paddock has gone to Lowell, Mass., to work for the city water company.

The lease of the hotel to G. W. Mellon has expired and Israel Trudeau is thinking of buying it.

Dr. O. B. Gould has sold his business in Greensboro on account of ill health, and is to return here for rest.

Craftsbury.

The frost in this town did much damage last week.

Mr. and Mrs. Royal Moody left for California some days since.

Roswell Chamberlin is putting a new coat of clapboards and paint on his house.

Warren Child has bought the sugar lot formerly owned by Ira Sanborn, paying $750.

Hollis Wanzer from Franklin county, will be at Augustus Paddock's store every Friday to buy butter.

Marvin G. Dunbar, formerly of this town, has returned and will make his abode at North Craftsbury for the present. He is a first-class painter.

Mrs. Graham and daughter from New York are in town and will spend the summer here.—Mrs. Turner of Illinois, sister of Mrs. Isaac Whitney, is in town for a few weeks.

There is much sickness at present in this town. Mrs. John Harvey and Mrs. Orson McAllister are both very sick, and Mrs. James Robbins has lung fever and Mrs. Seager rheumatic fever.

The steam engine in the Loman A. Smith shingle mill, blew up on Thursday last, killing Charles Gilbert of Wolcott, very badly injuring Mr. Smith, and almost completely demolishing the mill. The engine and machinery was moved from Hardwick to this town some months since, and a building was put up some distance north of Mill village, for the purpose of cutting out the cedar in that vicinity. Smith, who had several ribs broken and was terribly cut and bruised elsewhere, says that the engine was running without a steam gauge, and Gilbert had just gone below to pump water into the boiler when the explosion occurred. It is probable that the water was low and the explosion occurred when the water struck the overheated flues. Smith is in a critical condition, but will probably recover. The remains of Gilbert, very badly mangled, were carried to Wolcott for burial.

Glover.

Harrison Wilson is making extensive repairs on his barns.

Do not forget the auction at J. D. Graves', Wednesday, June 15.

Harlan Hall goes to the White Mountains to-day; he has a position in one of the hotels.

It is expected that Rev. Mr. Phelps will preach at North church, Sabbath eve, June 19th at 5 o'clock.

The Ladies' Parsonage Society will hold their next meeting at F. P. A. Clark's, Friday afternoon June 24th. All are invited.

Dr. Bailey, who for several months has been residing with Dr. Templeton, has taken Dr. Gould's place at Greensboro, we wish him abundant success.

The people of this community were pained to hear of the death of Mrs. Jennie (Bennett) Brown, formerly of this village, which occurred in Boston last week.

Martin Bean, son of the late A. P. Bean of this town, is in the place, home on a visit from the West; he has a prosperous business in a flourishing town in Minnesota.

Greensboro.

Dr. O. B. Gould, on account of failing health, has been obliged to give up practice in this town for the present. He had won the esteem of the community and has had a good practice. We regret his sickness and his departure. His business matters are in the hands of J. O. Cutler for settlement. Dr. Bailey of Glover will come to take Dr. Gould's place.

Irasburgh.

Children's Day will be observed at the Methodist church on June 26.

H. A. Bogue is agent for John B. Gough's new book, and will canvass this town.

E. W. Powell is building a horse barn, also Harlow Foss has a large new barn up and nearly covered.

Joseph Marston of Derby, who is in very poor health, moves here this week to live with his father-in-law, A. M. Blanding.

Joshua Beede has moved back here from Barton Landing, after an absence of about seven years; he occupies his brother George Beede's house.

Ellery Stanford has been quite sick with inflammation of the bowels, but is slowly recovering.—George Russell is still unable to sit up, from the effects of his wound received in the saw mill.

The friends and relatives of F. G. Metcalf and wife, not less than 70 in number, met at their house on Saturday, to celebrate their 25th marriage day. Among the many present were the fathers of Mr. and Mrs. Metcalf, and T. L. Parker of New Hampshire. Among the gifts presented were two sets of silver knives and forks from their sons, a valuable teapot from Mr. Parker's folks, a spoon holder from Guy Parker, a butter dish from A. D. Massy of St. Johnsbury, beside coin, glass ware, linen and other articles valued at nearly $50. Madison Cowles of Albany presented the articles in a very suitable speech, and others added interest to the occasion by brief remarks. Mr. and Mrs. Metcalf heartily thanked their friends for the visit and their acceptable presents. Refreshments were in abundance.

The Congregational Conference held here last week was one of unusual interest. Tuesday afternoon Rev. Mr. Parmelee of the Eastern Turkey mission was present, and gave much valuable information about his work. He exhibited several pictures, costumes and other curiosities, and with his little daughter sang some hymns in a tongue unknown to his audience. The children and youth of the place were present in good numbers, the village schools having been dismissed for that purpose. The same afternoon the ladies held a prayer meeting by themselves in behalf of missions. In the evening reports from the churches were given by the delegates, after which Rev. L. Phelps preached the conference sermon, a stirring one, from the words "Speak unto the children of Israel that they go forward." Wednesday morning the reports of the churches were continued and finished, and a discussion was had on the question, "What shall we teach our young people about true success in life?" Remarks of weight were made with much feeling by several good speakers, and some present were inspired with new courage with regard to the training of the young. In the afternoon Rev. Mr. King preached the communion sermon on "running the Christian race," and after the sacrament of the Lord's Supper the meetings were brought to a close.

Lowell.

Canker-rash has appeared in town, two of Rufus Kinsley's children being sick with it.

Crops were much injured by the severe frosts Monday and Tuesday mornings, June 6 and 7.

L. R. Wellman's new clerk is a boy; reported to weigh twelve pounds; commenced to work June 7.

Wm. Thornton has moved his house back from the street, decidedly improving the looks of the premises.

Prof. Button entertained three evenings here, instead of two as advertised, and the last night drew a full house.

At the town meeting, June 4, it was voted to adopt the new system of collecting taxes, as provided by the last legislature.

The Catholics held a fair at the town hall Tuesday and Wednesday evenings, June 7 and 8. Proceeds for the benefit of the church.

Messrs. Gerrold and Kimball are carrying on a piece of land on shares. One has planted it and the other has sowed it. What shall the harvest be?

Morgan Center.

More fishermen than fish, this season.

Horse buyers have been here looking after good horses.

D. T. Turner, Wm. Little, Carl Barnes and several others are making repairs on buildings.

Rev. W. A. Evans is expected to preach here on Tuesday evening of this week.—The Ladies' Society meets with Mrs. H. C. Davenport next Wednesday afternoon.

Newport.

Repairs are being made on the depot.

The streets and sidewalks are being repaired and improved.

Mr. Raymond is laying water pipe in some of the streets of the village.

B. E. Shaw adds fruit, tobacco and a news stand to his goods and business.

The R. R. Co., having purchased the Mountain house at Owl's Head, will put it in repair for the accommodation of summer visitors.

C. A. Prouty, relieved for the present of labors in the graded school, is turning his attention to his law business, repairs of his office, house, etc.

Mr. Paine, steward at the Memphremagog House, on account of poor health has left the business, sold out his furniture and will leave town.

The Misses Davis of Philadelphia, who have been here as guests at the Memphremagog House some seasons past, have arrived with their servants, horses, dogs, dog carts, etc. Their dog turnout is a very nice affair.

Children's Day services were observed at the Methodist church yesterday. The decorations of flowers, evergreens and birds exceeded any former designs in fulness and beauty. The congregation was unusually large and much interested. From the words "Learn of me," the pastor preached in the morning to the little folks. In the evening a large congregation gathered to hear the responsive services, the singing by the school and the speaking by the children.

Newport Center.

H. A. Larrabee is building a new barn.

Hollis Gould, our old townsman, is here on a flying visit.

The Earnest Workers will meet with Mrs. S. M. Flint the 16th.

Children's Day will be observed the 19th at the M. E. church with the usual decorations of birds and flowers, followed by concert in the evening.

Do not fail to come to the Sunday School convention to be held here, June 22-23. These meetings are always full of interest and bring together all those most interested in the Sunday School work from all the churches. The programme will be published next week.

North Troy.

Hon. H. C. Wilson and wife started for Ohio last Tuesday to be absent three weeks. They talked of extending their trip south.

Letters received from Geo. E. Braley and Fred W. Rand report their arrival in Colorado. Neither are pleased with the country.

Mrs. W. H. Rand has gone to Wisconsin to spend the summer. Mr. Rand goes shortly to the sea-shore to spend three or four weeks.

George G. May has traded his house with B. N. Chase for the premises Chase bought recently of H. B. Pattengill, paying $650 boot money.

J. S. Dorman, Esq., is to give a concert at South Troy, Tuesday night, assisted by some of the best musical talent in town. The concert given here last Monday night was a complete success.

Westmore.

Town meeting Saturday, June 18th.

Ball at Brown's on Monday eve, July fourth.

Geo Fogg has gone to Boston where he has a situation at work.

Village school commenced on the 6th, Miss Bridgman of Glover teacher.

At the re-organization of the Sunday-School John Hunt was chosen superintendent.

R. Averill has made an addition to his house for kitchen and dairy purposes.—Richardson and Carbee at the Lake House have built a laundry.

CALEDONIA COUNTY.

St. Johnsbury.

County Court convened last Tuesday morning, Rev. Mr. Sanford offered prayer, after which the grand and petit juries were called.

Grand Jury.—Barnet, J. A. Gould; Burke, C. T. A. Humphrey; Danville, F. C. Batchelder; Groton, Martin Weld; Hardwick, Henry Perley; Kirby, Jonathan Houghton; Lyndon, W. H. Hubbard; Newark, Alvin Carroll; Peacham, Ira W. Winter; Ryegate, W. J. Gibson; Sheffield, Horace Drown; Stannard, Thos. J. Hood; St. Johnsbury, Charles Ranney, John W. Balch; Sutton, Albert B. Ball; Walden, J. C. Stafford; Waterford, L. R. Streeter; Wheelock, Wm. Chase.

Petit Jury.—Barnet, Horace Warden, E. E. Woods; Burke, G. W. Woodruff; Danville, D. W. Morse, John Sias; Groton, Joseph Eastman; Hardwick, H. A. Chandler, J. B. Livingstone; Kirby, H. H. Ranney; Lyndon, S. D. Newcomb, H. B. Ruggles; Newark, R. Johnson; Peacham, Aaron McLary, R. B. Kenerson; Ryegate, N. H. Ricker, J. R. Park; Sheffield, J. B. Knox; Stannard, A. L. Weed; St. Johnsbury, C. H. Marshall, B. B. Spaulding; Sutton, H. F. Barker, D. E. Kimball; Walden, T. F. Farrington, George O'Neal; Waterford, J. W. Brown, E. O. Cushman; Wheelock, F. Darling.

The court gave the usual charge to the grand jury, appointed Hon. Henry Perley of Hardwick foreman, and Chas. Ingalls of Danville as officer to take charge of them during the session. The petit jury were then called and sworn, and then the following deputies were sworn in for the term: H. W. Buchanan, Sheffield; J. C. Ide, Lyndon; W. R. Streeter, East Burke; M. W. Smith, West Burke; G. M. Campbell, Sutton. The docket was then called and 24 cases were set for trial by jury. There are 125 cases on the printed docket, 109 being civil cases and 16 criminal cases. The chancery docket also contains 39 chronic cases.

Sutton.

Sutton folks are quite disposed to continue the fight against the building of South Barton and Westmore road, which if built will cross the peaked end of this town, and cost several hundred dollars.

Rev. Mr. Sherwood has tendered his resignation. Rev. Jonathan Woodman, long a pastor and one who, next to Elder Jonathan Colby, did most to build up the strong Freewill Baptist church in this town, preached yesterday and will spend some days among his friends here.

Peacham.

Hiram Rowe is repairing his buildings.

There are five acres of field onions in this town.

Wm. Ricker cut some orchard grass June 4th, that measured 44 1-2 inches, who beats?

Duncan Harvey killed and shipped to St. Johnsbury two nice hogs last Monday. Rob. Esden also killed one.

Mrs. William Steele and son from Scotland are in town on a visit. The Misses Chamberlin are here visiting friends.

The report that three of our townsmen were drunk at St. Johnsbury recently, appears to be a mistaken scandal.

J. E. Woodbury, the popular and efficient Sunday-school superintendent of the Congregational society, has been re-elected. His report shows a flourishing condition of the school. The average attendance for the year was 157 1-2, the largest during the year 211.

Negotiations for the transfer of the Panama Railroad to the De Lesseps Panama Canal Company, which have been pending for some time past, have been virtually concluded and the papers will be signed immediately. It is understood that the control of the railroad company is obtained by the purchase of its stock. The price agreed upon is $250, but the assets of the company are retained for the benefit of the stockholders. It is said that these assets are equal to 45 per cent on the stock, so that stockholders receive an equivalent of about $295 for their stock. The capital stock of the Panama Railroad Company is $7,000,000. The terms of the transaction for the transfer, or control, provide for the payment of $4,000,000 in cash July 1, and the remainder to be paid in installments of one-fifth every year.

Third Assistant Postmaster-General Hazen says the department will save under the new contract for printing postal cards about three hundred thousand dollars annually, or, during the four years of the contract, not far from a million and a quarter dollars. It will be an act to be proud of if Postmaster-General James can place the postal service of the country upon a self-sustaining basis, and stop the yearly demand upon the treasury for an appropriation to pay the expenses of maintaining the post-office department.

The Congressional election in South Carolina was not contested by the Republicans. The action of the court in revoking the appointment of the Federal supervisors left the Democrats free to cram the boxes with tissue-ballots and to intimidate and count at pleasure. The Republicans wisely concluded to take no part in so one-sided a farce, and not to compromise their position before the next Congress. As a Republican was legally elected last November no vacancy was caused by the death of the Democrat who was counted in, and the House will only do its simple duty in turning out the second Democrat who has received a bogus certificate of election.

That we do not over-estimate the importance of the corn crop the following facts and figures taken from the *Country Gentleman* are sufficiently convincing:

"The United States corn crop averages nearly 1,500,000,000 bushels or 47,000,000 tons, enough to load 5,000,000 rail cars, making 30,000 trains, each half a mile long; or enough to fill two continuous lines of box cars from Baffin's Bay to Cape Horn, and requiring 60,000 locomotives to draw them."

Is economy of tillage in producing this enormous crop of any importance?

The Conkling forces at Albany are using all their strength now to defeat the Republican party. There is no other interpretation of their course. They have 34 votes out of a possible 106 and they are using those 34 votes to prevent an election of two Republican Senators. They thus stand openly against their party in that state, and in favor of keeping the United States Senate in control of the Democrats.

Washington June 10.—The stories telegraphed hence about Secretary Blaine's ill-health, and about his resigning from the Cabinet and going abroad, are purely sensational and groundless. The Secretary has not been confined to his house, even for a day except as he chose to remain there to work. He was on the street several times to-day looking exceptionally well.

The situation at Albany relative to the senatorial fight is not materially changed.

Conkling and Platt are losing a little and Depew, has gone up to 55.

An eagle carried of a rooster from a barnyard near Rome, N. Y., but three days after chanticleer returned, looking well, but awfully hungry.

The great fire in Quebec last week rendered 1500 families homeless.

Heavy rains with freshets in many localities last week

BARTON MARKET.

Corrected every Saturday afternoon for the Orleans County Monitor by

O. D. OWEN,

DEALER IN GENERAL MERCHANDISE.

Beans,	per bushel,	$1.50 a $2.00
Butter,	per pound,	15 a 18
Pure Java Coffee,	"	20 a 30
Crackers,	per barrel,	3.25
Cheese,	per pound,	10 a 12
Codfish,	"	6
Corn,	per bushel,	75
Dried Apple,	per pound,	8
Eggs,	per dozen,	12
Flour, family,	per barrel,	6.25 a 6.75
" pastry,	"	7.25 a 7.50
Kerosene,	per gallon,	20 a 30
Lard,	per pound,	14
Tallow,	"	6
Meal, graham,	"	31-2
" oat,	"	5
Buckwheat Flour,	"	4
Nails,	"	4 a 5
Oats,	per bushel,	a 50
Potatoes,	"	a 35
Pork, salt,	per pound	10
Raisins,	"	12 a 16
Salt, fine dairy,	per box,	15 a 50
Sugar, brown,	per pound,	9 a 10
" white,	"	12
" maple,	"	7 a 9
Tripe,	"	8
Tea, black	"	45 a 75
" Young Hyson,	"	70
" Jap.,	"	28 a 60
Molasses,	per gallon,	62
Syrup,	"	90
Vinegar,	"	25
Wood, four foot,	per cord,	2.50
" 16 inch dry,	"	1.50

Boston Wholesale Produce Market,

CORRECTED EXPRESSLY FOR THE

ORLEANS COUNTY MONITOR,

—BY—

A. D. HIBBARD,

Jobbing and Commission Dealer in Butter, Cheese, Flour, Lard, Eggs, Beans, Dried Apple, &c., 21 John Street, Boston, Mass.

BUTTER, choice tubs,	per lb.	21 a 22
Fair to good,	"	18 a 20
Common,	"	14 a 16
CHEESE, factory,	"	9 a 10
Farm dairy, good,	"	8 a 9
Farm dairy, common,	"	6 a 7
FLOUR, St. Louis and Illinois,	per bbl.	6.50 a 7.00
Ohio and Michigan,	"	5.25 a 6.00
Common extra,	"	4.50 a 5.00
LARD, tierces,	per lb.	11 a 12
Tubs,	"	11 a 12
EGGS, fresh,	per doz.	16 a 16
Western,	"	15 a 16
BEANS, hand picked,	per bu.	2.55 a 2.70
Mixed,	"	2.00 a 2.10
DRIED APPLE, choice,	per lb.	4 a 5
Evaporated,	"	8 a 9
POULTRY, turkeys, fresh killed,	"	17 a 18
Turkeys, common,	"	12 a 13
Chickens, fresh,	"	17 a 18
Fowls,	"	10 a 13
PORK, extra clear,	per bbl.	20.00 a 21.00
Fresh hogs,	per lb.	8 a 9
Hams, smoked,	"	10 a 11
SUNDRIES, pressed hay,	per ton,	20.00 a 22.00
Hops,	per lb.	10 a 15
Potato starch,	"	2 a 5
Oats,	per bu.	54 a 56
Corn,	"	62 a 65
Potatoes, Early Rose,	"	80 a 85
Jacksons,	"	65 a 70
Maple sugar, tubs,	per lb.	7 a 8
Maple sugar, cakes,	"	8 a 9

Remarks.—There is a firmer feeling in the butter market and prices are a shade higher. Cheese is steady at quotations. Eggs are firmer and higher. Beans are quiet and steady. Flour is firmer and a little higher. Pork, lard and hams are steady at unchanged prices. Corn and oats are firm and slightly higher. Potatoes are in fair supply and a little weak in price.

MARRIED.

At the Catholic church, Lowell, June 5, Julius Benway and Miss Lizzie Jacques, both of Westfield.

At the Catholic church, Lowell, June 7, Frank Belrose and Miss Nellie Blanchard, both of Westfield.

At Troy, by E. H. Miller, Esq., George Rose and Elizabeth Hunley, both of Jay.

At Sheffield, June 8, by Rev. D. Lewis, John S. Deshazy of Burke and Miss Helen M. Eggleston of Newark.

DIED.

All notices of deaths inserted free; obituary notices and poetry five cents per line.

At Coventry, June 7, Mrs. Sarah Thrasher.

At Holland, May 25, of typhoid pneumonia, Mrs C. Worcester, aged 28 years, 7 months and 5 days.

At St. Johnsbury, May 31, Elvira S., wife of Lucius S. Gerry, aged 56 years.

At St. Johnsbury, June 3, Jefferson Packard, aged 74 years.

JOHN DUCKLES' ESTATE.

Notice of Settlement and Application for Distribution.

STATE OF VERMONT, } Orleans District, ss.

In Probate Court held at Irasburgh, within and for said District, on the 19th day of May, A. D. 1881.

Charles E. Duckles, administrator of the estate of John Duckles, late of Albany, in said district, deceased, presents his administration account for examination and allowance, and makes application for a decree of distribution and partition of the estate of said deceased.

Whereupon, it is ordered by said Court, that said account and said application be referred to a session thereof, to be held at L. H. Thompson's office in said Irasburgh, on the 7th day of June, A. D. 1881, for hearing and decision thereon.

And, it is further ordered, that notice hereof be given to all persons interested, by publication of the same three weeks successively in the Orleans County Monitor, a newspaper published at Barton, previous to said time appointed for hearing, that they may appear at said time and place, and show cause, if any they may have, why said account should not be allowed, and such decree made.

By the Court—Attest,
L. H. THOMPSON, Judge.
A true copy of Record,—Attest,
21-23 L. H. THOMPSON, Judge.

ESTATE OF ISAAC P. WHITNEY.

Commissioners' Notice.

The undersigned, having been appointed by the Honorable Probate Court for the District of Orleans Commissioners, to receive, examine, and adjust all claims and demands of all persons against the estate of Isaac P. Whitney, late of Craftsbury, in said District, deceased, and all claims exhibited in offset thereto, hereby give notice that we will meet for the purposes aforesaid, at the dwelling house of the deceased in said Craftsbury on the 25th day of June and 23d day of November next, from nine o'clock a. m., until five o'clock, p. m., each of said days, and that six months from the 23d day of May, A. D. 1881, is the time limited by said Court for said creditors to present their claims to us for examination and allowance.

Dated at Craftsbury, this 2nd day of June, A. D. 1881.

E. L. HASTINGS, } Commissioners.
23-25 L. D. MILES, }

Exhibit I

SUPERIOR TIMES.

SUPERIOR, WISCONSIN.

NEWS IN BRIEF.

The Fatal Elevator.

Two servants who were in an elevator in the St. Omer hotel, New York, on the 26th, when the rope broke have since died from their injuries.

Treaty of Peace.

A dispatch from Simla says a treaty of peace between Great Britain and Afghanistan was ratified on the 30th ult. A salute of thirty-one guns was fired in honor of the event.

Greek and Turk.

Some Greek brigands recently ambuscaded forty-six Turkish soldiers in the forest districts of Trickala, killed fourteen, cut their bodies in pieces and hung the pieces on trees.

The American Tract Society.

The American Tract society held its annual meeting at New York city on the 7th inst. The available resources during 1878 were $49,600; expenditures during the same time, $40,700.

Confesses the Crime.

The Boston *Herald's* Salem special says: "John McBuzzell confesses the authorship of the Jennie Clark trunk tragedy, and that he was hid in the woods for four days while officers were working up the case."

A Band of Thieves.

Frank Bailey and Nick Slaughter (white) and John Hall, Henry McNavry, Ed Lytle, Burrell Smith and Rust Holbert (colored) comprising a party of thieves, were arrested at Murfreesboro, Tenn., on the 25th. Two wagon loads of plunder were recovered.

The Four Per Cents.

The treasurer of the United States has decided that 4 per cent. refunding certificates may be deducted by national banks in making up their semi-annual return of average capital subject to duties the same as the law authorizes in the case of United States bonds.

Heard From.

The governor of Yakutsch, Eastern Siberia has received intelligence from Professor Nordenskjold of the Arctic expedition to May 3. The professor announced that he intended to start in the Vega for Europe by way of Behring straits and Suez canal. A telegraphic dispatch from Irkutsk reports the Vega has since arrived in Behring straits.

The Doomed City.

A violent hurricane at Szegedin, Hungary, on the 30th ult., destroyed the works prepared for restoring the railway and filling the breaches in the dam. Barges filled with building material and earth were mostly sunk. The storm caused extensive fresh breaches in the railway embankment, and the laborers are in great danger. Relief has been sent them.

Eads' Bonanza.

At the cabinet meeting on the 27th, the attorney general gave an opinion in relation to the Eads jetties, to the effect that Capt. Eads is entitled to the payment of half a million of dollars claimed to be due under his contract, notwithstanding the slight filling up of the river above the jetties, and the secretary of war has ordered the payment to be made.

Capsized by a Whirlwind.

During a thunder storm on the 25th inst., a whirlwind struck the small mail propeller Ramos plying on the Calcasin river, La., capsizing it and causing the boat to sink in thirty feet of water. The captain and engineer swam ashore, but six passengers named Lucien Denaine, J. O. Bird, Cora Parthon, Medora Parthon and Josephine Hanlaus and child, aged two years, were drowned.

The Pesky Reds.

John T. Vincent and four other men, while traveling from Fort Keogh to Fort Assinaboine recently, were attacked by fifty Yanktonnais Indians. After fighting twenty hours and killing eleven of the redskins, the men succeeded in effecting their escape, but were obliged to abandon their horses and wagons. The Indians near Fort McLeod are killing white men's cattle to avoid starvation.

Cattle Plague.

Reports from all parts of Georgia announce the appearance of a strange and fatal disease among cattle. In several counties the death rate among cattle and oxen is alarming. Nobody seems to understand the treatment of the malady, and it is spreading to the central and northern parts of the state. The symptoms seem to be new and the effects of the disease strange.

A Thorough-Bred Friend.

At Taborville, Mo., on the night of the 22d, a man named McMahon, who was working for Mr. Ellis, a well known farmer, raped his employer's daughter and fled. Ellis, as soon as he discovered the foul work, seized his gun and started in pursuit of the brute. Failing to find him, he was returning for help, but when near his house, McMahon sprang from ambush, wrested the gun from Ellis' hands and shot him dead. A posse is in pursuit of the villain.

Volcanic Eruption.

The volcano of Mount Ætna is in full eruption. Three new craters appeared near the town of Randazzo, at the northwest foot of the mountain. Streams of lava are flowing down the western slope. Several villages are threatened with destruction, and there is great alarm among the inhabitants.

Fresh craters have opened on Mount Ætna, endangering Bianca valley, Randazzo and Castiglione. Clouds of ashes overhang Redmont, which is in almost total darkness.

Naval Warfare.

An engagement has taken place off Iquique, Peru, between the Chilian wooden vessels Esmeralda and Cavedonga and Peruvian armor-plated frigate Independencia. All three vessels sank. The Esmeralda was originally a Spanish gunboat. The Independencia was the most important vessel in the Peruvian navy, her armament consisting entirely of Armstrong guns; namely, twelve seventy pounders and and two pivot guns. The latter were one-hundred-pounders.

A Cyclone.

A St. Joseph, Mo., dispatch of the 29th ult., says: At 10 o'clock this morning a cyclone swept part of Holt and Nodaway way counties, near Barnard and Bolckow, about 25 miles north of St. Joseph. It moved at a velocity of 60 miles an hour, demolishing houses, uprooting and twisting off trees, destroying property of all descriptions. It took a northeasterly direction, and when several miles east of Barnard, suddenly disappeared. A track of territory half a mile wide is devastated.

A California Lynching.

At Bakersville, Cal., on the 28th, a band of seventy-five men captured the jail and lynched Thomas and William Yocum in their cells. William Yocum was chained to the floor, and as the chain could not be loosened, he was hung with the shackles on his feet, and was shot several times after being hung. The Yokums were in jail for the killing of Johnson and Tucker at Long Tom, more than a year ago. Wm. Yokum had his trial and was convicted of murder in the first degree and the supreme court ruled last week that he should have a change of venue and his case was moved to Fresno county. The mob were all masked except five.

Railroad Accident.

A Cumberland, Ind., dispatch of the 28th, says: "At 1 o'clock to-day an outward bound express train on the Pittsburg division of the Baltimore and Ohio railway, when three miles west of the confluence near Pittsburg, ran on to a rock that had fallen on the track. Engineer Benj. Pritchard, residing at Connellsville, and an unknown tramp were instantly killed. The fireman, Flaherty, and also another tramp were seriously injured. Pritchard died with his hand on the air-brakes."

Political Notes.

The Ohio Republicans met in convention at Cincinnati on the 28th and nominated Charles Foster for governor; Andrew Hickenlooper for lieut. governor; W. W. Johnson for supreme judge; George K. Nash for attorney general; J. F. Ogelvie for auditor of state.

The Iowa Greenbackers held a convention at Des Moines on the 28th, and put in the field the following ticket:

For Governor—Daniel Campbell.
For Lieut. Governor—H. M. Moore.
For Supreme Judge—M. H. Jones.
For Superintendent—J. A. Nash.

Serious Deadlock.

A misunderstanding has obtained between the masters and iron workers at Pittsburg, Pa., which threatens to lead to grave results. It seems the workers held a meeting and fixed the price of puddling at $5 per ton—the same as last year. The manufacturers say they cannot afford to pay the rate, and effected a combination to secure their ends. As the employers will not pay the price asked, and the men will not reduce it, the fires in the vast system of iron manufactories in Pittsburg and the vicinity will be allowed to die out, and millions upon millions of capital and thousands of workingmen will remain idle and useless for perhaps several months.

Financially Embarrassed.

The Mechanics bank of Montreal, suspended payment. Subscribed capital $194,000; note circulation $170,000; deposits $250,000; other liabilities $12,000. The assets are put down as follows: Bills discounted $42,000; overdue debts $170,000; real estate and other assets $120,000.

More failures in Great Britain: John and Robert Fenton, cotton spinners, Rochdale; liabilities £50,000. Mathew Dickie, mill owner, Stockport; liabilities £45,000.

Shrinkage of values of property has caused the Scituate savings bank, of Boston, Mass., to be enjoined from doing further business.

Fatal Shipwrecks.

Another fishing vessel, the schooner William Thompson, of Gloucester, Mass., has been lost with a crew of fourteen men. They leave seven widows and twelve orphans.

A Calcutta dispatch of the 20th, says: The British India Steam Navigation Company's steamer Ava, was sunk in collision with another vessel and sixty-six of the crew and four passengers were drowned. The Ava was an iron screw steamer of 2,600 tons, built in 1873.

A letter from Puntas Arenas, Costa Rica, mentions the loss of a vessel, on board of which were the English vice-consul, Mr. Dunsmore, two other foreigners, a Chilian trader and five of the crew.

Drowned.

Eva Williams and Emma Davies, aged respectively 13 and 14 years, were drowned in the river at Columbus, Ohio, on the 30th ult.

Joseph Stevenson, Isaac Fielding, George Desshaw and Seraphim Martin were drowned in the lake at Valleyfield, Quebec, on the 25th.

Robert Jackson, aged 20, and two sisters 16 and 12, were drowned in Third Lake, township of Stanhope, Ont., by the upsetting of a canoe.

Charles Clark and Charles Wells, boys of 12 and 14, were drowned in a pond near Menomonee, Wis., on the 27th.

While John King and Walter Swan were crossing Niagara river on the 26th, at Lewiston, N. Y., the boat was upset by an eddy and both were drowned.

Southern Vendetta.

A Louisville *Courier-Journal* special of the 26th, from Beverton, Ky., says the "Underwood war" has again broken out. On the upper Tygart creek, in Carter county, Elva Underwood, while peacefully at work in a corn field near his home, was shot from ambush on the 22d and killed. George Underwood, Elva's father, was also killed in a similar manner, and now Jesse has entered the field as the avenger of his family's wrongs. It is feared that there will be a fearful amount of bloodshed, and farmers in the neighborhood are fearful of becoming victims of the assassin's ball, and are forsaking their fields. Information was received from Breathitt county that Andrew Carpenter, while peacefully at work in his own yard, was shot by an unknown party in ambush.

After Many Days.

P. N. Coleman, a citizen of Tennessee, was tried for murder by a court martial during the war and sentenced to be executed. He was subsequently taken out of the hands of the military and tried by state courts and again sentenced to be executed, but on an appeal to the United States Supreme Court the action of the state courts was set aside. The attorney general holds that the sentence of the court martial was not affected by the decision of the Supreme Court, and the sentence can be carried into execution, but, in view of the circumstances and time when the crime was committed, and the lapse of time which has occurred since its commission, he recommends that the president commute the sentence to imprisonment for life.

Award of Medals.

The secretary of the treasury has awarded life saving medal of the first class to Capt. Kendrick, commander of the government tug at Ludington, Mich., for the rescue of seven persons from the wreck of the barge J. H. Rutter, November 1, 1878. Medals of the second class have been awarded to Capt. Wm. Burke, of the schooner Andrew Jackson, for saving six persons from the wreck of the schooner Joe Vilas on October 9th, 1876, on Lake Michigan, and to Captain Patrick Langan of the schooner C. Wells, of Buffalo, New York, and Frank McGuirk and William Geezerman, on the same vessel, for the rescue of the mate, who had been swept overboard the night of the 6th of October, 1876, on Lake Erie.

A Frightful Hotel Fire.

Early on the morning of the 29th ult., a fire was discovered in the Washington house, at Hagerstown, Md., and before an alarm could be given the flames had gained such headway that escape for the guests was entirely cut off. Every room in the hotel was occupied at the time of the disaster, there being sixty names on the register, besides the regular boarders. Nearly all of the inmates of the building escaped by climbing down the porch pillars, fifteen of them receiving serious injury by falling and about twenty slightly bruises. One man, L. Troxell, of Cumberland, was burned to death. Loss on hotel and furniture $40,000; insured for $28,000. Loss on personal property of boarders $10,000.

The Death Roll.

An official statement from Port au Prince, Hayti, says: M. Roche Monart, French minister, died of yellow fever two hours after he was attacked. His private secretary and first secretary of the legation are dead of the disease, and the second secretary of the legation is sick with it.

Harry Mighels, editor of the Carson (Nev.) *Appeal*, and formerly lieutenant-governor of Nevada, died on the 28th.

Joseph Armorer, an old and respected citizen of Ft. Smith, Arkansas, died on the 25th, aged 92.

Deliquorg, the Greek statesman and minister of finance, is dead.

Ex-Mayor Wm. Chapin, of Cleveland, Ohio, died, on the night of the 24th.

William Lloyd Garrison, died at New York city on the night of the 24th.

James M. Gillett, a prominent Fond du Lac citizen and a resident of Wisconsin for thirty-four years, died on the 24th.

A Dishonest Cashier.

Mr. Dierberger, assignee of the Broadway Savings bank, St. Louis, Mo., has discovered in the private drawer of J. P. Krieger, jr., cashier of that institution, papers in the form of checks, drafts, etc., which conclusively show that Krieger and Meyer A. Goldsoll is indebted to the bank about $300,000, the recovery of which is very doubtful. Similar papers were found in Krieger's room at his father's residence, where he lived. To what particular use Krieger and Goldsoll put the money obtained from the bank, or whether Krieger derived any benefit from it, does not appear, but that Krieger was in collusion with Goldsoll and furnished him money without proper security, there can be no question. These transactions have extended over a period of nearly three years, and most of them have been studiously kept from the knowledge of the directors. Krieger is under arrest.

News from Zululand.

On the 11th of May, a great battle took place at a point between Thringpost and Sanhawalla. It seems that a powerful Zulu chief named Malcolm, with all his people, numbering some thousands, had resolved to surrender to the British; he was joined by Dabaal Manzi, Cetewayo's brother, who commanded the Zulus at Gingihalovo and a remnant of that army, its chiefs having kept away from Cetewayo since their defeat through fear. When nearing Thringpost they were unexpectedly intercepted by a powerful force, supposed to be commanded by Cetewayo, coming from the northward. A fearful conflict ensued, resulting in great slaughter of Zulus who wished to surrender, and they were dispersed and driven back. Cetewayo has taken up a strong position at the fork of the White Umveloal, and native scouts state that he declares he will never surrender.

A Murderous Record.

Villie Black, of the firm of Villie Black & Co., wholesale tobacco dealers of Cincinnati, was shot and fatally injured, on the 30th ult., by a discharged negro, through revenge.

Wm. M. Morrill and W. H. Albright quarreled in an open car on the Brooklyn city railroad, on the 30th ult. Morrill was knocked off the car and falling on the rails was mangled fatally by the wheels.

Louise Boncvat, aged 54 years, was murdered by her husband, at New York, on the 29th.

While John H. Lewis and son, farmers, living near Winchester, Ind., were opening a ditch on the 27th, they were ordered to stop by their adjoining neighbor, John Lumpkins and two sons. A quarrel ensued in which Lumpkins' eldest son was shot and instantly killed, the youngest son and father receiving very severe injuries. Young Lewis was fatally injured by being struck on the head with a brick. The elder Lewis has surrendered to the authorities.

Wholesale Poisoning.

At Newark, Vt., on the 28th, a party of nine children drank water from a brook, the waters of which had been polluted by the carcasses of a horse and several sheep, and were poisoned, from the effects of which seven died soon after, their bodies becoming putrid and demanding immediate burial. The others cannot survive. A Mrs. Morse lost two, Mrs. Carpenter lost three, and two more are the ones referred to as dying—taking her entire family; Mrs. Aldrich lost two. There is great excitement in the community about the matter.

Later—There have been nine deaths so far of children who drank from the poisoned brook. Edward Morse lost two, John Aldrich three, Fred Simpson one, L. Wilson one, Mr. Park one, and John Cole one. Potato tops, poisoned by Paris green, thrown in the brook, are regarded as the cause of the poisoning rather than the carcasses of dead animals. Terrible distress prevails, and work is suspended. Twenty-seven children were poisoned by drinking the water.

Fire, Water and Smoke.

A fire at Chase, Mich., on the 29th destroyed the saw and shingle mill owned by C. W. Joiner, together with over a million feet of lumber and a large amount of shingles and logs; one store, two dwellings and the postoffice also burned. Loss $20,000; insured $1,500.

The Schwartz & Bro. hardware and junk establishment, corner of Magazine and Julia streets, New Orleans, burned on the 27th. Loss estimated at $100,000.

A blaze in the business portion of Parkersburg, West Va., on the 28th, destroyed $21,000 worth of property.

At Carleton Place, Ont., on the 27th, a spark from a locomotive ignited a stock of lumber. Twelve million feet were destroyed. Loss $130,000

The town of Paris, Michigan, was nearly destroyed by fire on the 26th. Loss $27,000; insurance $6,000.

A fire in Richards' store house, corner of Bridge and State streets, New York, occurred on the 26th. Loss about $60,000.

The burr mill stone warehouse of John T. Moye & Sons, the boot and shoe factory of M. E. Toulmins, and the belting manufactory of G. D. Barr, at Buffalo, N. Y., were consumed on the 26th. Loss about $100,000; liberally insured.

At Washington, D. C., on the 26th, Miller & Gross' candy manufactory was burned. Loss $30,000.

The Orental Powder company's magazine, near Brighton, Ill., containing fifty thousand kegs of the explosive, was struck by lightning on the 25th, and entirely consumed.

The total loss by the fire at Dalles, Oregon, is estimated at $200,000.

An extensive conflagration was experienced at Brooklyn, N. Y., on the night of the 24th. The Towler, Crampton & Co., linseed oil mills on Furnham street, were destroyed. The owners estimate their loss at from $250,000 to $300,000. Storehouse "D" of Watson's stores, the lessees being Bartlett & Green, was also consumed. It was filled from the ground floor to the roof with sugar, jute, hemp, cotton and other materials. B. & G. place the loss on their goods at $500,000.

VETOED.

The President Sends Another Document to the House

Giving His Reasons for Witholding His Approval

From the Legislative, Executive and Judicial Appropriation Bills.

WASHINGTON, May 29.—The following message of the president was delivered to the house of representatives to-day:

Message to the House of Representatives:

SIRS: After mature consideration of the bill entitled "an act making appropriations for the legislative, executive and judicial expenses of the government for the fiscal year ending June 30th, 1880, and for other purposes," I herewith return it to the house of representatives in which it originated with the following objections to its approval:

The main purpose of the bill is to appropriate money to support, during the next fiscal year, the several civil departments of the government. The amount appropriated exceeds in the aggregate $18,000,000. This money is needed to keep in operation the essential functions of all the great departments of the government, legislative, executive and judicial. If the bill contained no other provisions, no objection to its approval would be made. It embraces, however, a number of clauses relating to subjects of great general interest, which are wholly unconnected with the appropriation which it provides for. Objections to the practice of tacking general legislation to appropriation bills, especially when the object is to deprive a co-ordinate branch of the government of its right to the free exercise of its own discretion and judgment touching such general legislation, were set forth in the special message in relation to house bill No. 1 which was returned to the house of representatives on the 29th of last month. I regret that the objections which were then expressed to this method of legislation have not seemed to congress of sufficient weight to dissuade it from this renewed incorporation of general enactments in an appropriation bill, and that my constitutional duty in respect to the general legislation thus placed before me cannot be discharged without seeming to delay, however briefly, the necessary appropriations by congress for the support of the government. Without repeating these objections, I respectfully refer to that message for a statement of my views on the principle maintained in debate by the advocates of this bill, viz., that to withhold appropriations is a constitutional means for the redress of what the majority of the house of representatives may regard as a grievance.

The bill contains the following clauses, viz: "And provided further that the following sections of the revised statutes of the United States namely, Sections 2,016-2,018 and 2,020 and all of the succeeding sections of said statutes down to and including Section 2,027 and also Section 5,522 be and the same are hereby repealed. * * * * and that all the other sections of the revised statutes and all laws and parts of laws authorizing the appointment of chief supervisors of elections, special deputy marshals of elections, or general deputy marshals having any duties to perform in respect to any election, and prescribing their duties and powers and allowing them compensation, be and the same are hereby repealed."

It also contains clauses amending Sections 2,017, 2,019, 2,028 and 2,031 of the revised statutes. The section of the revised statutes which the bill, if approved, would repeal or amend is an act approved May 30, 1870, and amended February 28th, 1871, entitled an act to enforce the rights of citizens of the United States to vote, in the several states of this Union, and for other purposes.

All of the provisions of the above named acts, which it is proposed in this bill to repeal or modify, relate to congressional elections. The remaining portion of the law which will continue in force after the enactment of this measure is that which provides for the appointment by a judge of a Circuit Court of the United States of two supervisors of elections in each election district, at any congressional election, on due application of citizens who desire, in the language of the law, "to have such election guarded and scrutinized." The duties of supervisors will be to attend at the polls at all congressional elections and to remain after the polls are open until every vote cast has been counted; but they will have no authority to make arrests or to perform other duties than to be in the immediate presence of the officers holding the election and to witness all their proceedings including the counting of votes and making a return thereof.

The part of the election law which will be repealed by the approval of this bill includes these sections, which give authority to the supervisors of election "To personally scrutinize the count and canvass each ballot," and all the sections which confer authority upon United States marshals and deputy marshals in connection with congressional elections. The enactment of this bill will also repeal section 5,522 of the criminal statutes of the United States which was enacted for the protection of United States officers engaged in the discharge of their duties at congressional elections. This section protects supervisors and marshals in the performance of their duties by making obstruction on the assaulting of these officers or any interference with them by bribery or solicitation or otherwise, crimes against the United States. The true meaning and effect of the proposed legislation are plain. Supervisors with authority to observe and witness the proceedings at congressional elections will be left, but there will be no power to protect them or to prevent interference with their duties, or to punish any violation of the law from which their powers are derived. If this bill is approved only the shadow of authority of the United States at national elections will remain. The substance will be gone. Supervision of elections will be reduced to mere inspection without authority on the part of the supervisors to do any act whatever to make the election a fair one. All that will be left to the supervisors is permission to have such an oversight of elections as the political parties are in the habit of exercising without any authority of law in order to prevent their opponents from obtaining an unfair advantage. The object of the bill is to destroy any control whatever by the United States over congressional elections. The passage of this bill has been urged upon the ground that the election of members of congress is a matter which concerns the states alone; that these elections should be controlled exclusively by the states; that there are and can be no such elections as national elections, and that the existing law of the United States regulating congressional elections is without warrant in the constitution. It is evident, however, that the framers of the constitution regarded the election of members of congress in every state and in every district as in a very important sense justly a matter of political interest and concern to the whole country. The original proposition of the constitution on this subject is as follows:

"Section 4, Article 1: The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof, but congress may at any time, by law, make or alter such regulations, except as to places of choosing senators."

A further provision has been since added, which is embraced in the fifteenth amendment. It is as follows:

"Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude.

"Section 2. Congress shall have power to enforce this article by appropriate legislation."

Under the general provision of the constitution (Section 4, Article 1) congress in 1866 passed a comprehensive law which prescribed full and detailed regulation for the election of senators by the legislatures of the several states. This law has been in force almost 13 years. In pursuance of it all of the members of the present senate of the United States hold their seats. Its constitutionality is not called in question. It is confidently believed that no sound argument can be made in support of the constitutionality of national regulation of senatorial elections which will not show that the election of members of the house of representatives may also be constitutionally regulated by national authority.

The bill before me itself recognizes the principle that the congressional are not state elections. It leaves in full force the existing statute under which supervisors are still to be appointed by national authority, to "observe and witness" congressional elections whenever due application is made by citizens who desire state elections to be "guarded and scrutinized." If power to supervise in any respect whatever the congressional elections exists under Section 4, Article 1 of the constitution, it is a power which like every other power belonging to the government of the United States is paramount and supreme, and includes the right to employ the necessary means to carry it into effect. The statutes of the United States which regulate the election of members of the house of representatives, an essential part of which it is proposed to repeal by this bill, have been in force about eight years. Four congressional elections have been held under them, two of which were at the presidential elections of 1872 and 1876. Numerous prosecutions, trials and convictions have been held in the courts of the United States in all parts of the Union for violation of these laws. In no reported case has their constitutionality been called into question by any judge of the courts of United States. The validity of these laws is sustained by the the uniform course of judicial action and opinion.

If it is urged that the United States election laws are not necessary, an ample reply is furnished by the history of their origin and of their results. They were especially prompted by the investigation and exposure of frauds committed in the city and state of New York at the elections of 1868. Committees representing both of the leading political parties of the country have submitted reports to the house of representatives, in extenso, of those frauds. A committee of the fortieth congress, after a full investigation, reached the conclusion that the number of fraudulent votes cast in the city of New York in 1868 was not less than 25,000. A committee of the forty-fourth congress in their report submitted in 1877 adopted the opinion that for every one hundred actual voters of the city of New York in 1868, 108 votes were cast, when in fact the number of lawful votes cast could not have exceeded 88 per cent. of the actual voters of the city. By this statement the number of fraudulent votes at that election in the city of New York alone was between thirty thousand and forty thousand. These frauds completely reversed the result of the election in the state of New York, both as to the choice of governor and state officers and as to the choice of electors of president and vice-president of the United States. They attracted the attention of the whole country. It was plain that if they could be continued and repeated with impunity, free government was impossible. A distinguished senator in opposing the passage of the election laws declared that he had for a long time believed that our form of government was a comparative failure in the larger cities. To meet these evils and to prevent these crimes, the United States laws regulating congressional elections were enacted. The framers of these laws have not been disappointed in their results. In the large cities, under their provisions, the elections have been comparatively peaceable, orderly and honest.

Even the opponents of these laws have borne testimony to their value and efficiency, and to the necessity for their enactment. A committee of the 44th congress, composed of members, a majority of whom were opposed to these laws, in their report on the New York election of 1876 said: "The committee would commend to other portions of the country and to other cities this remarkable system developed through the agency of both local and Federal authorities, acting in harmony for an honest purpose. In no portion of the world, and in no era of time, where there has been an expression of the popular will through the forms of law, has there been a more complete and thorough illustration of Republican institutions. Whatever may have been the previous habit or conduct of elections in those cities, or however they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor or legal forms, and just authority may do for the protection of the electoral franchise."

This bill recognizes authority and duty of the United States to appoint supervisors to guard and scrutinize congressional elections, but it denies to the government of the United States all power to make its supervision effectual. The great body of the people of all parties want a free and fair election. They do not think that a free election means freedom from wholesome restraints of law, or that the place of an election should be a sanctuary for lawlessness and crime. On the day of an election peace and good order are more necessary than on any other day of the year. On that day the humblest and feeblest citizens, aged and infirm, should be, and should have reason to feel that they are, safe in the exercise of their most responsible duty and their most sacred right as members of society—their duty and their right to vote.

The constitutional authority to regulate congressional elections which belongs to the government of the United States and which it is necessary to exert to secure the right to vote to every citizen possessing the requisite qualifications, ought to be enforced by appropriate legislation. So far from public opinion in any part of the country favoring any relaxation of the authority of the government in the protection of election from violence and corruption, I believe it demands greater rigor both in the enactment and in the exaction of the laws framed for that purpose. Any oppression, any partisan partiality which experience may have shown in the working of existing laws may well engage the careful attention both of congress and of the executive in their respective spheres of duty for the correction of these mischiefs. As no congressional elections occur until after the regular session of congress will have been held, there seems to be no public exigency that would preclude a seasonable consideration at that session of any administrative details that might improve the present methods, designed for the protection of all citizens in the complete and equal exercise of the right and power of suffrage at such elections. But with my views both of the constitutionality and the value of existing laws I cannot approve any measure for their repeal except in connection with the enactment of other legislation which may reasonably be expected to afford wiser and more efficient safeguards for free and honest congressional elections.

(Signed) RUTHERFORD B. HAYES.

EXECUTIVE MANSION, May 29th, 1879.

The house refused to pass the legislative appropriation bill over the president's veto, yeas 113, nays 91, not the necessary two-thirds in the affirmative. The message was referred to the judiciary committee.

"Old Jack."

The firemen of Leavenworth, Kansas, mourn the recent death of "Old Jack," a horse twenty-two years old. Of him the *Times* says: "For about ten years he belonged to the fire department, and the department never had a truer, more faithful animal. He seemed to instinctively scent fires, and has been known, by his prancing and efforts to get out of his stall, to give an alarm before any one has become cognizant of a fire; and when once attached to the engine, nothing could stop him until the vicinity of the fire was reached, and he bore down upon it with the speed of a whirlwind, the driver permitting him to control the direction of the engine, trusting to the instinct so strong within him, which never failed to designate the precise location of the flames."

A YOUNG artist has painted the picture of a dog under a tree, and the work is so artistically done that none but the best connoisseurs can tell the bark of the tree from that of the dog.

XLVIth CONGRESS.

Senate.

MONDAY, May 26.—The bill reported by Bayard to provide for the exchange of subsidiary coins for lawful money and making such coins legal tender in sums not exceeding $20, was taken up, and Edmunds spoke against it......The president pro tem. announced his signature to the legislative appropriation bill, which now goes to the president......The bill relative to transportation of animals was then taken up and debated......The senate then went into executive session, and when the doors were reopened, adjourned.

TUESDAY, May 27.—After debate on several amendments, action on the bill relative to the transportation of animals was postponed until the first Monday of December next......The senate then took up the bill to make subsidiary coin exchangeable for lawful money, and without acting thereon adjourned.

WEDNESDAY, May 28.—The senate took up the bill to make subsidiary coin exchangeable for lawful money, and making such coin legal tender in sums not exceeding $20, the pending question being on the committee's amendment to substitute $10 for $20. Edmunds moved an amendment to substitute $5 for $10. Rejected. The committee's amendment was adopted—yeas 31, nays 21. On motion of Bayard, the fourth section, making silver coin of the face of 25 cents receivable for postage or in purchase of postage stamps in sums not exceeding $3, was stricken out. The question recurring on Conkling's amendment to substitute the words "silver coins of the United States of a similar denomination than $1" for the words "fractional or subsidiary silver coins," it was adopted. After further debate the bill was reported back to the senate and the amendments made in the committee of the whole agreed to. The bill was then read a third time and passed......On motion of Pendleton, the bill heretofore introduced by him to provide that the principal officers of the executive departments may occupy seats on the floor of the senate and house of representatives was taken from the table, and on his motion referred to a committee of ten to be appointed by the chair......The senate, on motion of Call, then took up the bill to allow the use of the militia and land and naval forces of the United States in certain cases, and to repeal the election laws...... After an executive session the senate adjourned.

House.

SATURDAY, May 24.—The legislative appropriation bill, as enrolled, was presented, signed by the speaker, and sent to the senate for the signature of the presiding officer of that body......The post-route bill was then passed, and the silver bill was taken up. Warner withdrew his demand for the previous question, and the vote was taken on Ryan's substitute, which was rejected—yeas 69, nays 137. The vote was then taken on the passage of the bill, and it was passed—yeas 114, nays 97......Adjourned until Tuesday.

TUESDAY, May 27.—After a short debate the senate bill to prevent the introduction of contagious diseases into the United States was passed without an amendment, and it now only awaits the president's signature to become a law......Adjourned.

WEDNESDAY, May 28.—The bill for ascertaining the result of presidential elections was reported from the committee having the subject in charge, ordered printed and recommitted......The house then engaged in the business of the morning hour, the bill relative to the removal of causes from state to federal courts. The Republicans refusing to vote, the house was without a quorum and a call of the house was ordered. The morning hour was used up by dilatory motions without an advance being made in the bill. After transacting District of Columbia business the house adjourned

THURSDAY, May 29.—Gibson, of Louisiana, from the committee on ways and means, reported the resolution for final adjournment on the 16th of June. Laid over till Saturday......A message was then received from the president vetoing the legislature, executive and judicial appropriation bill. The house then proceeded to vote on the passage of the bill, notwithstanding the president's objection. The result was, yeas 112, nays 91, not the necessary two-thirds in the affirmative. This was a strict party vote. Only four Greenbackers voted, two (Ladd and Stevenson) in the affirmative and two (Barlow and Ford) in the negative. The message was then referred to the judiciary committee. On motion of Stephens, the amendments to the subsidiary coinage bill were then concurred in. The principal amendment is that limiting the legal tender quality of subsidiary coin to $10 instead of $20, as originally provided in the house bill. ......Adjourned till Monday.

THE MARKETS.

Reported by CHANDLER, BROWN & CO., Commission Merchants, Milwaukee and Chicago.

New York.

NEW YORK, May 31—3:00 P. M.—Flour—Dull; receipts 25,000 bbls; sales 3,000 bbls at $4.00@6.00 for round hoop Ohio; rye flour steady. Wheat—Dull; spring and heavy winter at ½@1c lower; receipts 481,000 bus; sales 72,000 bus; No. 2 red cash at $1.15@1.15¾. Rye—Quiet and unchanged. Corn—Heavy; receipts 579,000 bus; sales 5,000 bus at 43@43½c for western mixed. Barley—Dull and nominal. Oats—Steady; receipts 70,000 bus; sales 22,000 bus at 35@36c for mixed western; 37@41c for white. Pork—Firm at $10.00@10.12½. Lard—Steady at $6.32½. Butter—At 6@18c. Cheese—At 3@8c. Whisky—At $1.05. Sugar—At 6⅞@6⅝c. Eggs—At 10@14c. Petroleum—Crude at 6⅞@7⅝c; refined at 8⅝c. Coal—Quiet and firm. Leather—Steady. Wool—Very strong at 20@40c.

Chicago.

CHICAGO, May 31—1:30 P. M.—Flour—Quiet but steady. Wheat—Firm and irregular at $1.01½ for cash and seller June; 98¼c for seller July. Corn—Weak, heavy and lower at 35c for cash; 35¼c bid for seller June; 36¼c bid for seller July. Oats—Weak and easy at 29c for cash; 29¼c for seller July. Rye—At 52c. Barley—At 65@67c. Pork—Weak and lower at $9.62½ for cash $9.62½ bid for seller June; $9.75 bid for seller July. Lard—Easier; $6.05 bid for cash; $6.15 bid for seller July. Whisky—At $1.03. Hogs—Receipts 18,000 head; fairly active and firm; 5c higher; light at $3.50@3.60; heavy packing at $3.40@3.60; shipping at $3.50@3.70.

Milwaukee.

MILWAUKEE, May 31—3:00 P. M.—Flour—Very quiet but steady; choice spring at $4.00@4.50; common to fair at $3.50@3.87½. Wheat—Tame and lower; No. 1 hard at $1.02¾; No. 2 cash at 99¼@99½c; No. 3 at 79¼@80c; No. 4 at 72@73½c; rejected at 61c; No. 2 seller June at 99¾c@$1.00; seller July at 98¾@99¾c. Corn—Active but easier at 35½c for No. 2 cash. Oats—Active at 29½c. Barley—Quiet at 62c No. 3 at 43c. Rye—Active and higher at 51½c. Pork—Steady at $9.70 cash; seller July at $9.80. Lard—Quiet at $6.12½. Hogs—Dull at $3.25@3.60. Cattle—Quiet; good to choice at $3.50@4.50. Sheep—Firm at $4.00@5.00 for choice.

Foreign.

LONDON, May 31—12:30 P. M.—Liverpool wheat market opens slow; western red winter at 9s 1d; white Michigan at 9s 1d. Floating cargoes quiet but steady.

A Verified Dream.

Thirty years ago two Norridgewock young men met and one said: "Charles, I dreamed last night that you were a judge of the supreme court of Maine, that I was a minister, and that you called on me to open your court with prayer." Just 30 years after Rev. Dr. Chas. F. Allen, late president of the state college, and now pastor of the Fairfield Methodist church, happened to step into the supreme court room in Augusta, Judge Charles Danforth beckoned to him and asked him to open his court with prayer, and the dream was verified.

MISS-CONSTRUCTION—Paint, powder, whalebone, and so forth.

FROM OUR STATE EXCHANGES

BEN BUTLER owns 20,000 acres of land in Polk county.

J. M. GILLETT, a well known lawyer of Fond du Lac, died Saturday morning.

HARVEY GREENFIELD was severely injured by being thrown from a buggy at Medina, near Appleton.

MADISON will be the scene of the meeting of the next Women's congress, October 8th and 9th.

THE Seventh Day Adventists will hold their annual camp-meeting in Madison, June 11th-17th.

THE Vandyne cheese factory, just started, consumes 4,000 pounds of milk daily. Ladd's factory uses 5,200 pounds daily.

FROM nearly every town in the state reports come of loss of property and stock by lightning during the late storms.

PETER LINEGER, of Oshkosh, was so severely injured while trying to stop a runaway team Monday that it is feared he cannot recover.

SUNDAY night, in Beaver Dam, the livery barn and paint shop of Wm. Wade were destroyed by fire. Loss $3,500; no insurance.

AUSTIN COLE, a well-to-do farmer of Brodhead, hung himself in his barn, with a strap. He has been considered insane for some time.

CHAS. PIKE has been arrested for the robbery of $90 from Moses Nightingale, engineer of the self-propeller in Fond du Lac. The thief confessed and $30 in money were recovered.

WE hear renewed reports of damage from the species of worm that is infesting the city. Trees, shrubbery and garden stuff are suffering in every direction.—*Green Bay Gazette.*

A YOUNG man named Webb, living in the town of Harmony, near Janesville, attempted suicide Sunday by swallowing an ounce and a half of opium. He didn't succeed. Insanity is the cause.

LAST Tuesday night the farm house of John Callahan, at Mount Horeb, near Madison, was burned to the ground. The family escaped, with considerable danger to themselves. No insurance.

MR. BACKUS and Mr. Durkee, of Kenosha, prominent lumber dealers, got into a free fight Tuesday over their business, and Durkee cut Backus with a hatchet, probably destroying an eye.

HENRY W. BOYER, convicted of the murder of Edward Trudeau, in the Wood County Court, has been granted a new trial. He ran away when the verdict was given, but gave himself up again.

HIGH waters are creating some trouble at the log drives of the lower Wolf. A few days ago the overflow was so great as to scatter logs back to the woods and fields. In the upper channel a blockade is feared.

C. L. WILLIAMS, of the Green Bay Deaf and Dumb institute, was discharged Tuesday from custody. He has been on trial for an alleged rape on a deaf mute, Barbara Wildfang, but the court held that there was no reasonable evidence that the defendant was guilty.

DURING the great storm, Saturday night, George Pilkington, the night operator at Mazomanie, while crossing the wires, endeavoring to get a circuit, was struck by lightning and knocked down. He was able to be at his post again, Saturday night, however.

HENRY BUSH, of Byron, met with a painful accident the other day. Engaged in driving fence posts with the help of one of his men, just as the latter was about to strike a blow the former accidentally placed his hand in the way, and the heavy maul crushed the member between it and the post.

THERE was a lively time in Caledonia, Friday, over the election to vote $20,000 in bonds, in lieu of which the Chicago, Clinton and Dubuque company are to construct a narrow gauge road from Caledonia to their road. The election was a close one, and resulted in 112 votes being cast in favor of the bonds and 82 against. This will probably necessitate a change in the plans of the La Crosse and Omaha road, recently organized.

THE C. and T. railroad is being put in splendid shape. The work of ballasting has been going on for some weeks, and a large force is now engaged in widening out the Connelly cut, near Woodman. In a few days work will be commenced on the extension to Montfort, from which place they expect to run an excursion train on the 30th inst.—*Lancaster Gazette.*

MRS. THEODORE BROWN, of Neenah, met with a severe accident Tuesday. She and her small boy were driving their horse over to the depot, and while passing over the railroad crossing they collided with another vehicle, and Mrs. Brown was thrown out of her buggy, breaking her wrist and otherwise injuring her. She was taken home and at this time lies in a critical condition.

A FEW days ago John B. Dwinnell, of Lodi, lost one of his best cows by lightning, and considers himself very fortunate in getting off as easily as he did. The cow that was killed was standing within three feet of the stable door. George Dwinnel and Chris. Odegard, the hired man, were both close at hand, tending to the stock at the time of the accident, and saw it all. Mr. Dwinnell himself was not far off, we believe, but fortunately all the human inhabitants of the farm escaped without injury.

LAST week, as Charles Riggs was engaged in blasting out rock from the river bed, for the Atlas Paper company, there was discovered in the excavated rock what was unmistakably the form of a huge sturgeon. Unfortunately it was broken by the blasting process, but a section of the fish at least one foot long was taken out whole. That it was the petrified form of a sturgeon there is no doubt whatever. The form is perfect, and in every way resembles in appearance a real, live fish.—*Appleton Post.*

DOWN at Liberty Prairie, in this (Dane) county, the other day, one Mrs. Ole Natedalen was killed by an unmanageable bull. Mrs. N. had gone out with a young girl to milk several cows. Finishing her labor, Mrs. N. was about to return to the house, when she discovered the bull of the place attempting to tear down a fence. The woman undertook to drive the bull away, but failed. Taking renewed courage she went up to the infuriated creature, when he turned upon her in all fury, and tore her, as it were, all to pieces. She died soon thereafter. The victim was about 55 years of age.—*Madison Democrat.*

DURING the brief thunder shower this morning, a quick, sharp crash was heard which startled almost everybody. The lightning, it appears, struck the back end of a house on Madison street, a few doors from Merritt street, occupied by a family named Nelson. The current ran down the gable end from the roof to the ground, tearing the siding completely off. Some of the lath and plastering was also torn off. Those of the family who were in the house were

Exhibit J

HERALD AND TRIBUNE.
THURSDAY, AUGUST 10, 1871.

TERMS FOR ADVERTISING.

[illegible]

All advertisements due when inserted, unless upon special agreement. Where the number of insertions is not marked, advertisements will be inserted "till forbid" and charged accordingly. [illegible] the announcement of candidates for [illegible] offices, $10; County, $5; Municipal, [illegible] in advance.

[illegible] Lodge No. 47, [illegible] every Monday night.

The Splendid Crystal Fountain.

All who have drank Soda Water at [illegible] & Mathes' Ice Crystal Fountain, pronounce it good.

Their fountain being lined with porcelain, the last glass drawn is as pure as the first. [illegible] Water in Copper fountains, after standing a day or two becomes impure and unhealthy.—[illegible]

O. B. SMITH & Co, 108, Gay Street, [illegible] are offering better bargains in BOOKS, STATIONERY, &c. than ever [illegible]. The reason of their great success is they buy and sell for Cash. July27tf

The Question Settled!

Believing it will be to the interest not [illegible] of ourselves, but our customers, we have this day decided to adopt the

"Pay Down System,"

and adhere to it strictly, except as regards Pensioners, who pay us promptly every three months.

We will keep a large and first-class stock of all kinds of Goods, and will be enabled to sell them at lower figures than [illegible] which do a general crediting business.

We want all kinds of Country Produce, for which the highest market prices will be paid.

MAHONEY & SHIPLEY.

Jonesboro, aug3tf

Camp-Meeting.

There will be a Camp-meeting at Old [illegible] Dan Camp-ground in Greene County, commencing on Friday, September 15. Let the people of God repair to the sacred spot, on which so many hundred people were happily converted, in [illegible] that are past.

As the original camps were destroyed during the war, the brethren will erect temporary tents of boards or canvas in which to shelter during their stay.

JOHN R. HUGHES.

New Advertisements.

Do not fail to read the advertisement of Siesfeld & Mayer. They mean just what they say and will do as they promise. [illegible] liberal and fair dealing firm and [illegible] in the market with great bargains.

Parents and Guardians are requested to read the advertisement of the Holston [illegible] Institute. Prof. R. H. Dungan is an accomplished educator and has excellent assistants.

The East Tennessee Institute, also announces the opening of the Fall and Winter session. It is a splendid institution [illegible] watches closely the interest of its pupils.

Notice of Stockholders meeting at Knoxville, on the 6th of September to elect officers for the ensuing year.

Personal.

[illegible] W. E. Mossey, the famous [illegible] [illegible] from [illegible] to his [illegible].

Among the [illegible] we have [illegible] J. C. McFarland of Jefferson, W. H. [illegible], Esq., of Blountville, Messrs. A. V. [illegible] and D. F. Bailey of Bristol, [illegible] James Britton, Lieut. A. B. Wilson and H. H. Ingersoll, Esq., of Greeneville, and Mr. G. M. Murrell of Fall Branch.

[illegible] James W. Deaderick, of the Supreme Bench, and lady arrived here on [illegible] evening and are stopping with [illegible] Col. J. G. Deaderick. The [illegible] looks robust and vigorous after the [illegible] session of the Court.

[illegible] next week.

[illegible]ard.

We understand that Prof. Wyman, the [illegible] Wizard and Ventriloquist will [illegible] our town in a few days. We have [illegible] some very flattering notices of his performances. Mr. J. F. Landers, is the [illegible]

T. Hawkins & Co.

[illegible] just opened a fine assortment of [illegible] and Tinware at the old stand formerly occupied by Mr. John Gallagher, [illegible] they invite the attention of the [illegible]. They will not suffer a house to [illegible] them. July27w4

Unfortunate.

[illegible] eight months ago, a scamp by the name of Russell, living at this place, [illegible] a sudden departure for parts unknown. Soon his partner in life and [illegible] followed him. These unnatural parents left behind them three [illegible] in destitute circumstances.— [illegible] have found good and permanent [illegible] whilst the third, a little girl, has [illegible] kindly cared for, to this time, by the [illegible] of Mr. H. P. Miller. They are anxious to keep her longer, and we [illegible] her a home, where her moral and intellectual training will not be neglected. [illegible] about eight years old, and a smart interesting child. We are constantly [illegible] to extend succor to the perishing [illegible] world, and will not these filled with [illegible] recollect we have the [illegible] us, and provide charity for [illegible] and parentless little child.

[illegible]Up.

[illegible] Fair Stockholders, from whom payments are due, are urgently requested to [illegible] the "needful" with the Treasurer [illegible]. The indebtedness for the [illegible] of the grounds is fast accruing, and Dr. Bovell will soon be called [illegible] by the contractors for their pay. [illegible] be no delay and embarrassment, [illegible] to the matter at once.

[illegible] residence of Dr. Parrott, at Union, [illegible] was entirely destroyed by fire on [illegible] night.

[illegible]harged.

[illegible] Powell, a Sullivan County citizen, arrested for the third time on last [illegible] week at Blountville, for the murder of Capt. John Thornhill in Jefferson [illegible] in 1865. The [illegible] Circuit Court of [illegible] as soon as arrested, Powell sued out [illegible] of Habeas Corpus before Judge [illegible] of the U. S. Court and had a hearing before his Honor at Bristol, last Saturday, where he was discharged. [illegible] efforts to convict Powell [illegible]

WANTED.

East T. Va. & Ga. Railroad Stock.

The highest market price will be given for One to One Hundred Shares. Address R. H. RICHARDS, East Tennessee Book House, Knoxville, Tenn. aug10m2

Circuit Court.

The broiling, sweltering days of August have come, and along with them, but not as necessary sequence, the Circuit Court, Hon. E. E. Gillenwaters, the presiding officer was at his post at 9 o'clock Monday morning, and the court was opened with prayer by Rev. John P. Holtsinger, of Greeneville. The following gentlemen were chosen from the venire as Grand Jurors:

John F. Smith, Foreman, George Copp, John L. Murray, C. W. Meek, James D. Martin, Allen L. Barnes, Franklin Hulse, Alfred F. Brown, J. D. Henley, James Biddle, Sevier Martin, Leander Simmons, and A. C. Collins.

These gentlemen are representatives of our good and lawful citizens, have an intelligent comprehension of their duties as an inquisitorial body and will perform the same without fear and partiality. We noticed the efficiency, promptness and watchfulness with which Sheriff S. E. Griffith manages his part of the Court machinery. He is making one of the best officers the country ever had, and the people know it. His corps of efficient deputies, Messrs. Moore, Young, and Taylor were always on hand, when their services were required. Capt. Hacker, the Prosecuting Attorney is rapidly disposing of the State docket and manfully sustaining the public rights and safety. The Senior is sweltering through his labors to the general satisfaction even if his comfort, and temperament are slightly disturbed.

Up to the time of going to press, the following cases have been disposed of:

State vs. Samuel Shrewsberry. *Nolle Pros.* State vs. Neal Smith *Nolle Pros.* State vs. Taylor Beckley. Fine $20 and costs. State vs. James Glaze, Lawrence Glaze and Bruce Broyles. *Nolle Pros.* State vs. John and Jonathan Hartman. *Nolle Pros.* State vs. George Stanton. *Nolle Pros.* State vs. Henry Jones.—Felonious Assault. Acquitted. State vs. Tinsley Vernon. Acquitted. State vs. Jeremiah and Charlotte Allen. Assault and Battery, convicted. State vs. Wilson Landers. *Nolle Pros.* State vs. Thos. J. Squibb. Acquitted. State vs. Aiden Gray and Mary Hilton. Convicted. State vs. J. P. Mercer, and Wm. Wilds. Acquitted. State vs. Newton Green and Mary Green, keeping house without license. The first fined $50 and imprisoned for three months, the other released.

The trial of James Hale, colored, for the killing of Edmond Spurgeon, colored, is in progress.

The Band.

The "horns" have come, the brass ones, we mean, from New York. On Monday we saw one, about six feet long, going up street with a man attached. From the size of this musical hollow-ware we have seen, an earthquake shock, some of these days quite shortly, may be expected.

BUY your School Books of O. B. SMITH & Co., 108 Gay Street, Knoxville. They buy in large quantities from the publishers, and offer great inducements to country merchants. July27tf

Sons of Zion.

This colored organization had a grand jubilee at Greeneville on Tuesday. The delegation from this place was large and dressed in all the fantastic colors and oddities required by the occasion. They were accompanied with a band—fife and drum—and before leaving treated the town to a few pieces of stirring music.

Mahoney & Shipley,

Have just received their second supply of beautiful Jelly Glasses. Ju27

Drought.

Every day we have a slight sprinkle of rain to revive the drooping vegetation. The earth is blistered with heat and the dust is inexorably villainous.

Fruit.

Melons, peaches, pears, apples, grapes and all kind of fruit are abundant in our market, but high prices remain steady.

Pic Nic.

A Pic Nic, on a grand scale, will come off at Easley's Spring, near Johnsons City, Saturday, August 19th. The enterprising spirit of the managers, Messrs. J. M. Gentry, Tipton Jobe, W. F. Range, J. M. Johnson, P. G. Range, Thos. Wright and W. H. Hawley, assures a decided success. The locality selected is a charming retreat, and every thing will be furnished and nothing left undone to make the occasion the most enjoyable. Go every body.

Mountain Messenger.

The beginning number of this journal, Mr. R. M. Dickey, editor and proprietor, has reached our table. In a graceful and happy salutatory, the editor greets his readers and pledges himself to the advocacy of progressive and useful measures, without regard to party. Long may this enterprise flourish amid the "rock-ribbed mountains of the Old North State."

Attention Soldiers of 1812.

Mr. E. N. Griffith, who has just returned from Washington, is now prepared to prosecute claims for Pensions for the soldiers of 1812, and their widows. He has full instructions from headquarters, and his success in the past, as a claim agent is a sufficient guarantee that your business will be attended to promptly and successfully. Give him a trial. Address

E. N. GRIFFITH, Esq.
Jonesborough, Tenn.

Answered.

Our enigmas, week before last, were answered by Miss Sarah Adler and Mr. Paul M. Mustin, Augusta Ga. Andromache of Troy. Romulus founder of Rome.

Last Monday

One of the largest assemblies we ever saw in Jonesborough honored the opening of the Circuit Court. A most creditable state of order and quietude prevailed throughout the day. Farmers represented the wheat and oats crop as decidedly short, but the corn as generally promising.—Many sections of the county have experienced excessive drought, and in these places, the corn is beyond the redemption of rain.

During the day, our merchants were unusually busy, an activity they have not experienced for some weeks.

County Court was also in session, increasing the multitude somewhat. We learn that considerable business was disposed of.

MARRIED—On Tuesday, July 13th, by Rev. W. R. Gross, ABRAHAM H. SANDERS Esq., to Miss B. A. BOWMAN, all of Sullivan County.

DIED—At Escatawpa, Ala., on the 1st inst., of Chills and fever, James L. son of A. J. Hamilton Esq., near this place in the nineteenth year of his age. He was sober and industrious, and well spoken of by those who knew him.

At Washington College, on the [illegible] inst., [illegible] Lessie, infant daughter of Mr. W. A. and Margaret Lessie, aged two years [illegible]

EDUCATIONAL.

BY PROF. HENDERSON PRESNELL.

"There is within every man a divine ideal, the type after which he was created, the germs of a perfect person, and it is the office of education to favor and direct these germs."—KANT.

HOW ABOUT SCHOOLS.

Whether we have schools or not, depends upon our own efforts. The county fund, or "free money" as it is called, will not amount to anything more than a few cents to the scholar. This money is not sufficient to maintain free schools.—The District Commissioners can, by a little effort, do much to stir up the people to the importance of opening as many schools as possible this fall. There will be some free money and it can used, as far as it will go, to assist in defraying the expense of the school.

There is a good deal depending upon the District Commissioners. They have under their control the school house, and, in fact, all the school interest in their Districts. If they will only bear in mind how much can be done by a little effort, to better the condition of Common Schools in Washington County, they will surely be willing to give the subject a little more attention during next year.

THE TEACHER'S LIBRARY.

Under this head, we desire to call the attention of teachers to the importance of reading books that treat of the school teacher's work. A. S. Barnes & Co., publish the Teacher's Library which contains many interesting and useful volumes.—We can not understand how teachers are able to do their duty in the school room without reading and preparing themselves for their profession.

UNIVERSAL EDUCATION is the title of one of the volumes of the Library. The author, Ira Mahew, A. M., approaches the subject with the clear, keen perception of one who has observed the necessity and realized the feasibility of general education. Every teacher ought to read the work. Every school officer and every friend of common schools will rise up from reading such a book with a conscious feeling of being greatly benefited.

THE EDUCATOR by Mrs. Phelps is a valuable work for any teacher. Both these books can be safely recommended to those who may desire to read standard works on school teaching. Many other volumes of this Library will receive attention through the columns of the HERALD AND TRIBUNE.

THE KINDERGARTEN.

A manual for the introduction of Froebel's system of primary education into public schools; and for the use of mothers and teachers.

By Dr. Adolf Douai. Second edition, 12 mo, VIII, and 132, with 16 plates, cloth $1.00.

"The Kindergarten" is the title of a little book intended to help teachers to direct Kindergartens on a large scale.—The author proposes that in the future all our schools begin with Kindergartening. There are several peculiar features in the work. 1. It is adapted to the practical training of pupils in Normal Schools. 2. It contains selections in two languages, the English and German. 3. The collection of peices embraces, besides choice selections of poetry found in other German or English books of the same kind, many new and valuable ones.

The work is published in excellent style by E. Steiger, New York. We recommend it to our teachers who, we hope, will send for a copy of the work and examine it carefully, for it contains many timely hints for the teachers of primary schools.

THE RHODE ISLAND SCHOOL MASTER,—We have failed to receive the last two numbers of this well known School Journal. It is a great acquisition to any teacher's library.

We advise our teachers to send for a copy and examine it. Address, T. B. Stockwell, Providence, R. I.

THE TEACHER.—The mind of the child may be compared to the precious gem which is often surrounded by rough stones and ores of the base metals. The teacher is the lapidary who after rubbing and polishing brings out the matchless properties and beauties of the gem of the mind. In the hand of the lapidary, a rough stone may be made to reflect the light and properties of the sun from a thousand angles.

So it is in education.

Cedar Hill.

The school at Cedar Hill in the 11th Civil District closed on the 20th of last month. From all that we can gather, the exercises passed off very well. The school has given general satisfaction. Mr. Cartright, the Principal has done much hard work for the neighborhood and deserves the hearty support of the district.

The people are trying to sustain the school. Though the children in that section have been somewhat neglected, nevertheless they are found to be able to acquit themselves honorably whenever they have an opportunity.

The teacher in a letter says:

Our Exhibition came off on the 20th inst. I am happy to say it was a success. The girls and boys did far better than I had anticipated. We had a large audience to witness the Exercises, and I think it was well pleased. Our Committeemen were: Prof. J. C. Cox, James Carr, Isaac King. The prize for the boys was awarded to Mr. John Boring, the one for the girls to Miss Isabel Archer. The school met on Friday morning the 21st, the Commissioners were also present.—After making some remarks about our pleasant and unpleasant times we resolved to meet on Saturday evening to re-elect Commissioners and organize another school.

I will tell you what the board does when I come to town. They want me to teach again, but I can not unless my wages are increased.

I feel very much attached to all my scholars. When I came into the yard to start home they flocked around to bid me good-by with tears trickling from every [illegible]. The patrons of the school expressed their satisfaction with the way I had conducted the school. I [illegible]

from every one which encourages me to go on.

The Book Worm

A Magazine published monthly and devoted to the reviewing of new Books, has the following on LITTLE MEN, a Novel by Louisa M. Alcott, Boston; Roberts Brothers.

A charming book for boys, and not without interest for girls, since Jo's boys were some of them girls. The volume is a defense of schools where the sexes are mixed in play and study. There is a law of modification in communication with others, that should be the study of all teachers. This is true not only of the mental differences, but also of the peculiarities of the opposite sexes. "Half the science of teaching is in knowing how much children do for one another and when to mix them." The difficulty is, that circumstances mix them, and not the careful hand which would rightly adjust the proportions. The classes are made by the chance of patronage and not by the law of judgment. It is easier to dream out a set of boys and girls that will help each other, than to have them apply for places in your care if you are a teacher. None could be found to advocate the separation of the sexes, if the result had been always as perfect as in the taming of naughty Nan, the inspiring of dull Daisy, and the polishing of the rude boys at Prof. Bharer's. This book will help the cause of mixed schools. Altogether the Prof. had a delightful combination of home and school. His was a fatherly rule. The pedagogue was lost in the parent. His wife was full of the maternal love, and stretched her kind wing over others than her own brood. She had kisses even for Don, the street boy, which made him all her own.

As there is no pretense to a plot, the book is not a story, only a recital of broken phases of the life at Plumfield. We are assured that the oldest things in it "are the truest." Miss Alcott says "that no person, no matter how vivid an imagination he may have, can invent anything half so droll as the freaks and fancies that originate in the lively brains of little people." Books that depict real scenes are the ever living. Those created by frenzied Fancy, die early, as the children of sickly parentage. Without a plan, this volume has a philosophy. It is always the Young America idea of doing as you please. It is against the usual discipline of schools and homes. In so far as it combats harshness and coldness, we second all its thrusts. The sentiment is true that "the warmth of love and care is the best climate for young hearts and souls all the world over." We do not believe that the roaming, dissipating tendency of youth, is only "the natural desire of all young people for liberty." Dan's doctrine was nearly right, when he said, "the fact is, the devil gets into one sometimes." Whether he cannot be coaxed out of children more generally than driven, is the problem of government. In some cases a sugar plum will cure, and in others a birch rod. So far as this work is to help the sum of happiness for the youth, we join with it. We would not tighten a fetter upon their restless limbs. Let them have as little constraint and restraint as possible, but not license to all play and evil. The professor and his wife did have a cheerful way of settling fights and curing griefs and dividing burdens that made life at Plumfield a constant joy. Not a lad who reads these pages that will not wish he had such a place in which to get his education. How he will sigh for a part in those "pillow fights," that ended the week's doings. It was harmless sport, and laid a bright edge as a finish on Saturday night. "It takes so little to make a child happy that it is a pity, in a world full of sunshine and pleasant things, that there should be any wistful faces, empty hands, or lonely little hearts." This book will put fire in the eye and joy in the heart of all its young readers. It will be well if it does not put mischief in the head. It is a handy book for those less ingenious than the scholars at Plumfield. These exposures of tricks are much like the visit of a circus to a city, which sets every boy on his head against walls and fences, doing daring acts, and aping over the stale jokes of the stupid clown, they produce imitations. If Plumfield is not repeated in many places, we shall be unwilling to believe the story told by Miss A. of the children who put beans in their noses because their mother told them not to do it.

The Best Investments.

In his address in Texas, Horace Greeley seems to have given a summary of his experience, gleaned from all the years of his public and editorial life. He says:—The best investment a farmer can make for his children is that which surrounds their youth with the rational delights of a beauteous, attractive home. The dwelling may be small and rude, yet a few flowers will embellish, as choice fruit trees will enrich and gladden it; while grass and shade are within the reach of the humblest. Hardly any labor done on a farm is so profitable as that which makes the wife and children fond and proud of their home.

A good, practical education, including a good trade, is a better out-fit for a youth than a grand estate with the drawback of an empty mind. Many parents have slaved and pinched to leave their children rich, when half the sum thus lavished would have profited them far more had it been devoted to the cultivation of their minds, the enlargement of their capacities to think, observe, and work. The one structure that no neighborhood can afford to do without is the school-house.

A small library of well-selected books in the house has saved many a youth from wandering into the baleful ways of the prodigal son. Where paternal strictness and severity would have bred nothing but dislike and a fixed resolve to abscond at the first opportunity, good books and pleasant surroundings have weaned many a youth from his first wild impulse to go to sea or cross the continent, and made him a docile, contended, obedient, happy lingerer by the parental fireside. In a family, however rich or poor, no other good is so cheap or so precious as thoughtful, watchful love.

GENERAL EATON, Commissioner of Education, has collected from all available sources a list of the names of collegiate institutions instituted in the United States. The total number of names embraced in this list is 469, of which 306 appear to be names of colleges, 66 Roman Catholic schools, 68 colleges for females, and 29 institutes or high schools for males. In 1870 the number of English-speaking persons in the United States was 69,000,000. In 1871 that number had increased to 77,000,000. This officer has also prepared a chronological table of universities in Europe, which shows that the first university located in Europe was founded at Bologna, Italy, in 1119.

IT is said that ladies are to be admitted to Wesleyan University, Middletown Connecticut.

[illegible]

Siesfeld & Mayer!

JONESBORO, TENN.,

August 5, 1871.

IN order to make room for our FALL and WINTER GOODS, we now offer for the

NEXT 30 DAYS,

our entire stock of *Goods*, the largest and best selected in this county, at prices *regardless of cost, for*

CASH OR PRODUCE!

We wish it distinctly understood that we *mean what we say*, and invite the public to call and examine our

Stock & Prices,

before purchasing elsewhere, remembering our terms are strictly Cash or Produce. We feel confident our friends will be astonished at our prices! *Goods must come*

Down!

And we intend to take the lead, expecting the patronage of all who desire the full value of their money. Respectfully,

Siesfeld & Mayer, Jonesboro, Tenn

e aug10 apr10tf

FARMERS,

MILLERS and MECHANICS,

LOOK TO YOUR INTERESTS!!

THOMAS & CUMMINGS,

Dealers in all kinds of Agricultural Implements, Fertilizers, Fruit Trees and Grass Seeds, Sash, Blinds &c.

Manufacturers Agents for the celebrated BUCKEYE

REAPER AND MOWER! and Sweepstakes Thresher.

for the Counties of CARTER, SULLIVAN, HAWKINS, WASHINGTON, GREENE and COCKE. We have not room here to enumerate the many Premiums awarded to these Machines, nor are we so disposed even if we had; there has been ONE HUNDRED THOUSAND of them sold and operated in the United States!! All we ask of you is to inquire of any person who has used one of these Machines or seen them in operation and they will convince you they are THE BEST Machine in market.

We would here state to all who want Machines to call on us in person or by letter and get our Catalogue for 1871; and if you buy a Machine from us we will go to your homes if desired, put the Machine up and see that it gives satisfaction or take it away.

To Millers and Mill Owners.

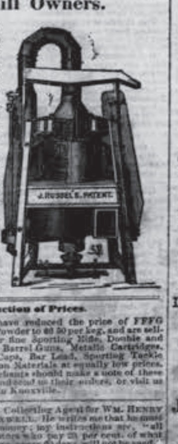
WE are also Manufacturers Agents for JOHN RUSSEL'S Double Suction Smut Machine for the States of North Carolina, Tennessee and Kentucky and we have no hesitency in saying it has proved itself the BEST SMUTTER ever offered to the American people. In several contests with and against the Gold Medal, the California, Eureka and every other Machine worthy of note now in the market and has proved itself champion in every trial. We challenge the world to produce a better one, or one of ours that is not giving satisfaction.

Particular attention given to sale of Mill Goods generally—anything from a Pick to a full out-fit for the best Merchant Mill.

We would say to our customers that in the way of FRENCH BURRS, Bolting Cloths, Rubber and Leather Belting, we can offer you superior inducements, as we buy our goods strictly for cash and get them direct from the Importers and Manufacturers. We have made arrangements by which we can furnish you anything in the way of Machinery, from a small Hand Saw to the largest First-class Steam Saw Mill, with a Twenty-Five Horse Power Engine. We will furnish you anything you want at Manufacturers prices with freight and charges added.

Call and get Catalogues, Pamphlets and Price Lists at

THOMAS & CUMMINGS' No. 5, Cox's Row, Jonesborough, Tenn. 71aprtf



Attention Smokers.

ROLLINGS' CHOICE SMOKING TOBACO.

We had occasion to try the above brand of choice smoking tobacco and considering ourself a judge of the weed, take this method of recommending it to our readers. It is manufactured by Messrs Davis and Hensley, Knoxville, Tenn. If our merchants will condescend to bring on a supply of it instead of the miserable stuff, half stems, that we have been compelled to use of late, they will not only advance their [illegible] the gratitude of [illegible]. Address Davis & Hensley, Knoxville, Tenn.

Reduction of Prices.

We have reduced the price of FFFG Rifle Powder to $6 50 per keg, and are selling our fine Sporting Rifle, Double and Single Barrel Guns, Metallic Cartridges, Shot, Caps, Bar Lead, Sporting Tackle and Gun Materials at equally low prices. Merchants should make a note of these facts and send us their orders, or visit us when in Knoxville.

I AM Collecting Agent for WM. HENRY MAXWELL. He writes me that he must have money; my instructions are, "all his debtors who pay 25 per cent. of what they owe every 60 days, will not be sued." Against those who do not, I will bring suit immediately in the Circuit Court. [illegible] NATHAN SHIPLEY.

Spring Trade!

MARCH, 1871.

Cowan, M'Clung & Co

IMPORTERS

AND

JOBBERS

Gay Street,

KNOXVILLE, TEN.

Offer to the Trade at

NEW YORK

JOBBERS'

Lowest

PRICES!

FULL LINES

—OF—

DRY GOODS,

Small Wares,

Notions,

— CLOTHING, —

Boots and Shoes,

HATS,

Hardware,

Queensware,

AND

GROCERIES.

Their Assortment in every Department,

Is more complete than heretofore, and for variety and cheapness, can not be excelled by any

JOBBING HOUSE

North or South!!

71mar0tf

VINEGAR BITTERS

PURELY VEGETABLE FREE FROM ALCOHOL
DR. WALKER'S CALIFORNIA VINEGAR BITTERS

J. Walker, Proprietor. R. H. McDonald & Co., Druggists and Gen. Agents, San Francisco, Cal., and 32 and 34 Commerce St., N.Y.

MILLIONS Bear Testimony to their Wonderful Curative Effects.

They are not a vile Fancy Drink, made of Poor Rum, Whiskey, Proof Spirits and Refuse Liquors doctored, spiced and sweetened to please the taste, called "Tonics," "Appetizers," "Restorers," &c., that lead the tippler on to drunkenness and ruin, but are a true Medicine, made from the Native Roots and Herbs of California, free from all Alcoholic Stimulants. They are the GREAT BLOOD PURIFIER and A LIFE GIVING PRINCIPLE, a perfect Renovator and Invigorator of the System, carrying off all poisonous matter and restoring the blood to a healthy condition. No person can take these Bitters according to directions and remain long unwell, provided their bones are not destroyed by mineral poison or other means, and the vital organs wasted beyond the point of repair.

They are a Gentle Purgative as well as a Tonic, possessing, also, the peculiar merit of acting as a powerful agent in relieving Congestion or Inflammation of the Liver, and all the Visceral Organs.

FOR FEMALE COMPLAINTS, in young or old, married or single, at the dawn of womanhood or at the turn of life, these Tonic Bitters have no equal.

For Inflammatory and Chronic Rheumatism and Gout, Dyspepsia or Indigestion, Bilious, Remittent and Intermittent Fevers, Diseases of the Blood, Liver, Kidneys and Bladder, these Bitters have been most successful. Such Diseases are caused by Vitiated Blood, which is generally produced by derangement of the Digestive Organs.

DYSPEPSIA OR INDIGESTION, Headache, Pain in the Shoulders, Coughs, Tightness of the Chest, Dizziness, Sour Eructations of the Stomach, Bad Taste in the Mouth, Bilious Attacks, Palpitation of the Heart, Inflammation of the Lungs, Pain in the regions of the Kidneys, and a hundred other painful symptoms, are the offsprings of Dyspepsia.

They invigorate the Stomach and stimulate the torpid Liver and Bowels, which render them of unequalled efficacy in cleansing the blood of all impurities, and imparting new life and vigor to the whole system.

FOR SKIN DISEASES, Eruptions, Tetter, Salt Rheum, Blotches, Spots, Pimples, Pustules, Boils, Carbuncles, Ring-Worms, Scald Head, Sore Eyes, Erysipelas, Itch, Scurfs, Discolorations of the Skin, Humors and Diseases of the Skin of whatever name or nature, are literally dug up and carried out of the system in a short time by the use of these Bitters. One bottle in such cases will convince the most incredulous of their curative effects.

Cleanse the Vitiated Blood whenever you find its impurities bursting through the skin in Pimples, Eruptions or Sores; cleanse it when you find it obstructed and sluggish in the veins; cleanse it when it is foul, and your feelings will tell you when. Keep the blood pure, and the health of the system will follow.

Pin, Tape, and other Worms, lurking in the system of so many thousands, are effectually destroyed and removed. Says a distinguished physiologist, there is scarcely an individual upon the face of the earth whose body is exempt from the presence of worms. It is not upon the healthy elements of the body that worms exist, but upon the diseased humors and slimy deposits that breed these living monsters of disease. No System of Medicine, no vermifuges, no anthelminitics will free the system from worms like these Bitters.

J. WALKER, Proprietor. R. H. McDONALD & CO., Druggists and Gen. Agents, San Francisco, California, and 32 and 34 Commerce Street, New York.

SOLD BY ALL DRUGGISTS AND DEALERS.

71aug3w52

Chancery Sale OF *Real Estate.*

No. 2201.

IN PURSUANCE TO AN INTERLOCUTORY decree pronounced by the Chancery Court at Knoxville, at its recent May special term, 1871, in the case of "H. B. Lee and wife, et. al., vs. John Dameron, et. al. I will, on the 26th day of August next, (1871,) sell on the premises to the highest bidder the one undivided half interest of the heirs of John Dameron, dec'd., in a House and Lot lying in Kingsport, Sullivan County Tennessee, and described in the pleadings as the Lot upon which Dameron's Store House now is in Kingsport, Tennessee, including the Store House, Dwelling House, Kitchen House, Smoke House, &c."

TERMS.

Said sale will be made on a credit of twelve months. Note with good security will be required of the purchaser, and a lien retained on the property.

M. L. PATERSON,
Clerk and Master.

July20w4pr$9 75 Ju27

Something New IN JONESBOROUGH.

THE JONESBOROUGH FOUNDRY COMPANY is now prepared to do all kinds of Casting, from the best material and in as neat style as it can be done East West, North or South, and for Low PRICES, challenge competition with either of these sections. We are prepared to make Mill Gearing and all other kinds of Machinery usually used in this country. Also, all the various styles of Plows, stocked and Ground ready for use—or the single Mould Boards.

We keep constantly on hand an unequalled stock of nice, smooth

Hollow-ware,

Consisting of Kettles of all sizes, Bakers and Lids, Deep Ovens and Lids, Skillets, Pans, Scotch Bowls, and everything in the Cast Hollow-ware line.

Country Produce

Of all kinds taken at Cash prices in exchange for our work. A liberal price paid for old Castings.

Give us a call at the Foundry one Square east of Court House.

Parties ordering from a distance will Address,

Foundry Company,
JONESBOROUGH, TENN.

71july27tf

MARBLE

GRAVE STONES, &c.

THE MOST

BEAUTIFULLY

FINISHED GRAVE STONES CAN BE HAD AT THE

Lynchburg Marble Works,

AS CHEAP AS ANY OTHER ESTABLISHMENT IN THE COUNTRY.

Monuments

BEAUTIFUL AND CHEAP!!

TOMBS, HEAD AND FOOT STONES, AND IN FACT EVERYTHING IN THE

MARBLE LINE,

CAN BE HAD ON AS REASONABLE TERMS AS CAN BE BOUGHT ANYWHERE.

Address:

J. B. GADDESS,
Lynchburg, Va.

P. S. I refer you to my work in your Cemeteries; also to Dr. M. S. Mahoney, Col. G. E. Grisham, and others, of Jonesborough, Tenn. 71febtf 6sep17

Get the Best.

I have a large lot of ready made Boots and Shoes of the very best quality on hand, and as I want money I am determined to close them out at COST FOR CASH. Call soon and get a good bargain.

H. P. MILLER.

Feb. 28, 1871 [illegible]

Exhibit K

NewsRoom

11/23/85 Hous. Chron. 11
1985 WLNR 1247161

Houston Chronicle

November 23, 1985

Section: 1

The bench and the Bible/State district judge refuses to leave his faith at courtroom door

CATHY GORDON

MONTGOMERY COUNTY state District Judge Olen Underwood stands behind the bench facing the jury, bows his head and tends to the first order of court.

"Ladies and gentlemen, will you pray with me?"

In the 284th State District Court in Montgomery County, Underwood's invocation at the start of jury trials is as routine as the swearing in of witnesses.

Jurors often echo "Amen" and thank him for the practice after court.

But the ritual has yet to receive the blessing of some members of the legal community who view it as an improper mix of church and state and a violation of the Constitution and of defendants' fundamental rights.

The grumbling is nothing new to the former Houston Oilers linebacker, a devout Baptist and family man. It is one of the reasons he now issues pretrial instructions informing attorneys of, among other things, his opening prayer and giving them the opportunity to object.

So far, no attorney has, said the 42-year-old judge. "At least not to my face. But I'm aware of the misconceptions about the religion issue, and they've got their chance."

His religious practice is not the only aspect of Underwood's courtroom style that has raised the issue of constitutionality.

Underwood once ordered a Baytown man who had failed to make child support payments to refrain from siring "any further children of this marriage or any other relationship" during his three years probation.

The man had failed to provide support for three children of a former marriage, and his second wife was pregnant.

Talk of the ruling enlivened lawyers' lunchtime conversations for months.

Underwood said of the ruling: "I know it's not enforceable and I would never in a million years try to enforce it, but the defendant doesn't know that. Face it, he had no business having more kids when he couldn't provide for the ones he had."

The defendant didn't object to the judge's conditions, but he also didn't make the child support payments as ordered and eventually disappeared from the area.

"A lot of times I tell people things that I know they won't do because I've got to find some way to reach them. I try to undo a lifetime environment in a two-minute lecture at the bench."

In February, Underwood garnered unwanted national publicity and criticism from several newspapers because he signed a temporary restraining order barring the free-distribution Magnolia Potpourri newspaper from publishing material that could "in any way publicly humiliate, embarrass or ridicule" Montgomery County Commissioner Weldon Locke. The judge signed the order at the request of Locke's attorney after the newspaper's publisher printed a letter to the editor raising questions about the commissioner's romantic relationship with the county auditor.

The order appeared to violate the broad First Amendment protection the press enjoys from prior restraint by courts of law. Underwood later terminated the order when Locke's attorney asked that a hearing on the matter be canceled.

Underwood has steadfastly refused interviews on the subject.

"There's been enough publicity about that to sink a battleship," he said.

His court clerk, Barbara Adamick, maintains he regretted signing the order from the moment the pen hit paper.

"All I know is he did sign it, and I think he regretted it from that moment on," Adamick said.

While Underwood remains silent about that ruling, he has a fast retort to complaints of religious overtones in the courtroom:

"If it's unconstitutional, so be it. But I made no two bones about it when I took the bench. My religion goes with me."

So much so, claims one Conroe defense lawyer, that a "specially revised" Miranda warning could apply to Underwood's court: "In the event you can't afford your own preacher, the court will appoint you one."

Coined the "Underwood warning," the joke refers to a list of volunteer counselors - most of them ministers - who have been approved by the judge to counsel probationers.

Some defense attorneys suggest it's not merely coincidence that the deeply religious judge has recruited men of the cloth for the task.

By Underwood's own admission, the list of 54 approved counselors is 90 percent ministers. But those names originated from suggestions by the defendants and their attorneys, he said.

"When they come before me for probation, they are asked to pick a counselor, either one of their own or one from the already approved list," Underwood said. That person then has to "covenant" with the court and agree to abide by set guidelines to help the probationer, he said.

"I sometimes have suggested to them that the logical place to look might be at their church," Underwood said.

The fact that ministers are connected in any way to the counseling program annoys some members of the Montgomery County Bar Association and the American Civil Liberties Union.

One defense lawyer who asked that his name be withheld because he takes cases before the judge said: "It's blatantly unconstitutional. It's as if the state is imposing religion, a direct violation of the First Amendment. Underwood is a good judge overall, but he ought to stick to preaching, since that's what he's trying to do in court."

Bruce Griffiths, staff counsel for the ACLU in Houston, said his office disapproves of the practice on church-state grounds.

"He is, in essence, requiring religious counseling. If there were a probationer that wanted to take issue with it, we'd be willing to take it to court. But what probationer wants to sue their judge?"

While Conroe defense lawyer Phillip Mintz said he dislikes the counseling provision because of "religious overtones," he doesn't mind the prayer.

"The counseling in my view is an unconstitutional provision because it mixes the church and the state," Mintz said. "If you talk about the foundation of morality and that sort of thing, that's obviously colored by the religious or theological viewpoint of whoever is counseling."

But Mintz said he had a change of heart about the judge's prayer after seeing its effect on jurors.

"At first I was real offended. I thought `You're really mixing church and state, and that's unconstitutional. But when I looked at the jury, especially during the punishment phase, I could see they weren't taking things lightly. They were really with the judge looking for guidance. It meant a lot to my client that they were taking his life so seriously," he said.

"I don't see where it's any different from the opening of the Supreme Court where they say `God save these United States and this honorable court.' "

Conroe attorney Bill Hall said while the counseling provision is unpopular among local defense lawyers, he has never known Underwood to revoke someone's probation because he did not attend sessions.

"On the contrary, he's waived that condition several times when I made the request with a valid reason," said Hall, an avid Underwood supporter. "My personal feeling is I've never run across a more conscientious judge. Decisions weigh heavily on him. I give him an A-plus."

Hall added that the counseling, if pushed to the test, "could be considered unconstitutional. But the judge's motive, I'm sure, is not so much to try to force religion on them, but so they'll have somebody to be in constant contact with. Someone who will encourage them not to violate probation."

While Underwood is generally extolled as honest, conscientious and innovative, disparaging remarks about his special conditions of probation are often uttered in the same breath.

Unlike other judges, Underwood requires that probationers receive counseling on a weekly basis and that they put in many hours of community restitution service. Defense attorneys complain that the judge should use more discretion in levying the two.

Underwood bases all punishment decisions for probationers on presentencing investigations. Some balk at the practice, claiming it violates defendants' Fifth Amendment rights to remain silent by allowing clients to be grilled by probation officers.

Underwood maintains the real reason attorneys gripe about the latter is because it allows him to find out things about the defendant that lawyers rather he didn't know.

Prosecutors tend to agree.

"He finds out a lot of times if the defendant has drug abuse problems, things like that," said Montgomery County District Attorney Peter Speers. "I commend a lot of his practices with probationers. After all, the whole point is to rehabilitate them."

"He's probably the finest judge I've ever worked with. I've never seen him make any decision lightly," agreed assistant District Attorney Bill Behler. "Everything I've seen him do is tailored to what he thinks is best for that defendant and society."

For young probationers standing before Underwood, that often means getting a general education degree within one year if they don't have a high school diploma. For all probationers, it means donating $25 to Crime Stoppers, a requirement initiated by Underwood that has caught on in other courts in the county. In Montgomery County, Underwood is known as the father of Crime Stoppers, having pioneered the program. He also started the county's community restitution program.

The judge also is known for personally reviewing his probationers' progress.

In one case, he took a young probationer into his home for a few months. The 19-year-old, on probation for burglary of a building, was given a short-term job as bailiff in Underwood's court.

"We're here to give them more than just a slap on the wrist. Probation should be to assist them in helping themselves," Underwood said.

"In a matter of seconds at the bench, I've got to get my point across. They're going to leave my court knowing how displeased I'll be if they break probation."

Overall, Underwood has weathered the criticism.

"He can stand close scrutiny where a lot of judges can't," said Conroe attorney Pat Green, who himself engaged in verbal battle with the judge at a local bar association meeting.

At issue was a controversial questionnaire the judge was asking couples to fill out in divorce cases. Two of the 11 questions dealt with religion. One asked the spouses' religious affiliation and the other wanted to know if either had attended worship services regularly during the marriage.

"He was doing it for his own purposes, kind of like a survey, but he didn't make it clear to the couple in court if they were obligated to answer under oath. It was a question of whether it should be done in open forum or not."

Underwood soon afterward made it clear to couples that they weren't required to respond, ending the dispute, Green said.

Underwood said the purpose of the survey was to help him better determine when a marriage is irreconcilable.

"Certain things help in my judgments," he said. "It's just like the prayer. It helps me when I've got a decision to make and I would hope it helps the jury."

Prosecutors complained three years ago when Underwood surprised them by praying for guidance and "mercy" during a capital murder trial.

"A bad choice of words," said Underwood. But, while not all approve of the practice, he still uses the word "mercy" occasionally, he said.

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (ACLU; AMERICAN CIVIL LIBERTIES; CONROE; MONTGOMERY COUNTY; MONTGOMERY COUNTY BAR ASSOCIATION; MONTGOMERY COUNTY DISTRICT; STATE DISTRICT COURT; SUPREME COURT) (Adamick; Barbara Adamick; Bill Behler; Bill Hall; Bruce Griffiths; Green; Hall; Ladies; Locke; Mintz; Olen Underwood; Pat Green; Peter Speers; Phillip Mintz; Prosecutors; Underwood; Weldon Locke)

Edition: 1 STAR

Word Count: 2293

End of Document